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CONTENTS

A MODERN DEFENCE OF THE PHARISEES 97
The Reverend ROBERT C. HARTNETT, S.J., Chipping Norton, Oxfordshire, England.

THE MORALITY OF ARTIFICIAL FECUNDATION 109
The Reverend GERALD KELLY, S.J., Saint Marys, Kansas.

"CUPIDI CURIOSI GYROVAGI" 119
The Right Reverend Monsignor H. T. HENRY, Litt.D., Washington, D. C.

SOME QUESTIONS ON VITIATED MARITAL CONSENT.—III. 131
The Reverend FRANCIS WANENMACHER, J.C.D., Buffalo, New York.

SOUND, TERSE, PRACTICAL PREACHING 153
The Reverend JOHN F. BURNS, O.S.A., Ph.D., Villanova, Pennsylvania.

FORGOTTEN CATHOLICS IN PUBLIC SCHOOLS 159
CLERICUS.

FIRST RETREAT HOUSE FOR PUBLIC SCHOOL BOYS 161
The Reverend IGNATIUS FABACHER, S.J., Saint Marys, Kansas.

A RETREAT FOR PRIESTS ACCORDING TO SAINT PAUL 165
Baltimore, 4-13 September, 1939

THE APPOINTMENT AND THE PRIVILEGES OF SACRISTANS 167

RECENT THEOLOGY 170
The Reverend FRANCIS J. CONNELL, C.SS.R., S.T.D., Esopus, New York.

CONTENTS CONTINUED INSIDE

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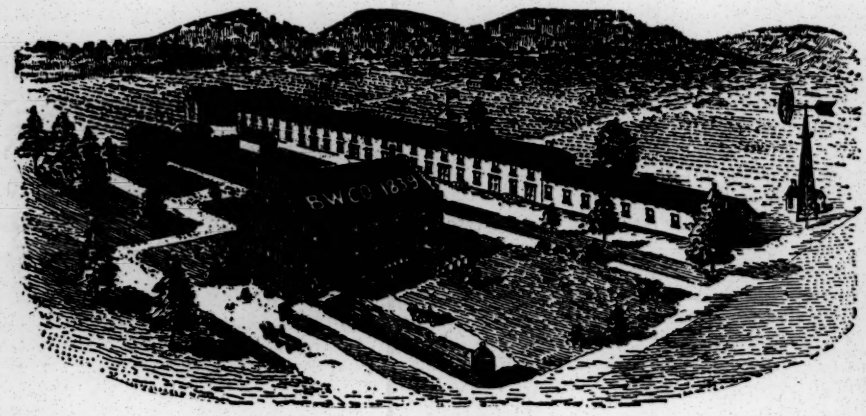

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Contents Continued

ANALECTA:

SACRA PAENITENTIARIA APOSTOLICA. (Officium de Indulgentis)
Decretum: De Portiunculae Indulgentia 150

DIARIUM ROMANAE CURIAE
Official List of Recent Pontifical Appointments 151

STUDIES AND CONFERENCES:

Sound, Terse, Practical Preaching 153
The Reverend John F. Burns, O.S.A., Ph.D., Villanova, Pennsylvania.

Forgotten Catholics in Public Schools 159
Clericus.

First Retreat House for Public School Boys 161
The Reverend Ignatius Fabacher, S.J., Saint Marys, Kansas.

A Retreat for Priests according to Saint Paul 165
Baltimore, 4-13 September, 1939.

The Appointment and the Privileges of Sacristans 167

Change of Color of Tabernacle Veil 169

Lapse of Membership in Pious Societies 169

ECCLESIASTICAL LIBRARY TABLE:

Recent Theology 170
The Reverend Francis J. Connell, C.SS.R., S.T.D., Esopus, New York.

BOOK REVIEWS:

Bussard: The Sacrifice 182

Hurley: The Unified Gospel 183

Bover-Burghers: Jesus the Messiah 183

The New Testament 183

Sheridan: By Post to Rome 183

Stolz-Keller: Manuale Theologiae Dogmaticae 184

Lietzmann-Woolf: The Beginnings of the Christian Church 185

Lietzmann-Woolf: The Founding of the Church Universal 185

Lattey: Paul 186

BOOK NOTES 187

BOOKS RECEIVED 191

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THE
ECCLESIASTICAL REVIEW

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A MODERN DEFENCE OF THE PHARISEES.

THE PHARISEES are pictured in the Gospels in colors that are very hard to erase. They live in the imagination of Christians as " whited sepulchres," as covetous, envious, ostentatious hypocrites. But the Pharisees of the Gospels, we are now being told, are only the straw-men of early Christian propaganda. The Pharisees of history, as they are revealed in their own literature, were honorable men, the worthy representatives of a form of religion different, indeed, from Christianity, but not necessarily inferior to it.[1]

The purpose of this essay is to give a fair exposition of what has been written recently in favor of this Jewish sect, and then to examine the weaknesses from which the plea of the defence seems to suffer.

We must preface the exposition by a few words explaining the mentality of the Pharisees.[2] As far back as we can trace

[1] See R. Travers Herford, *Pharisaism* (London, 1912; reëdited as *The Pharisees*, 1924) and *Judaism in the N. T. Period* (London, 1928); and among modern Jewish scholars especially I. Abrahams, *Studies in Pharisaism and the Gospels*. First and Second Series (Cambridge University, 1917 and 1924) and of the many writings of C. G. Montefiore, especially his *Synoptic Gospels* (London, 1927, 2 vols.) and *Rabbinic Literature and Gospel Teachings* (London, 1930). More recently have appeared *Judaism and Christianity:* Volume One, *The Age of Transition*, and Volume Two, *The Contact of Pharisaism with Other Cultures* (London, 1937). To each of these two volumes Herbert Loewe has contributed an essay in defence of the Pharisees. Klausner's *Jesus of Nazareth* (English trans. by Danby, 1926) and Lauterbach's essay " The Pharisees and Their Teachings " (in the Hebrew Union College Annual, Cincinnati, 1929) can be added to the list of recent *apologias*. Montefiore and Loewe's *A Rabbinical Anthology* (London, 1938) has the same purpose.

[2] Herford, *Pharisaism*, esp. c. 2 " The Theory of the Torah "; and M-J. Lagrange, O.P. *Le Judaisme Avant Jésus-Christ* (Paris, 1931) pp. 56ff., 272ff., 434ff; and G. F. Moore, *Judaism in the First Centuries of the Christian Era: The Age of Tannaim* (Cambridge, Mass. Vols. I-II, 1927. Vol. III, 1930), I, pp. 56-71 and 263ff.

the sect, they appear as zealous upholders of the Jewish law. What we designate by the terms "Jewish law" or "Mosaic law" is what the Jews called in Hebrew the *Torah*. Torah simply means "teaching." It was the name given by the Jews to the teaching *par excellence*, that is, the divine revelation vouchsafed to them through Moses. In fact, they came gradually to call the whole of God's revelation as set forth in the Scriptures of the Old Testament by this name, *Torah*.

The Pharisees took a very different view of Torah from the Sadducees. The Sadducees were the high-priestly sect, and to them Torah meant only the written word of God, nothing else. For the Pharisees, whether they were laymen or simple priests, the Torah embraced also the oral traditions of the Scribes. The Scribes were Scripture scholars who interpreted the written revelation and adapted and applied it to changing conditions. The whole purpose of their exegesis was to deduce from the written law precisely what God willed them to do in all the affairs of daily life. The more prescriptions that could be derived from the word of God, the more completely did the lives of the Pharisees become a continuous act of obedience to divine commandments. Every action of the day acquired its halo of holiness. The good Pharisee in this way strove to live ever in the presence of God, and to worship, in the words of the Psalmist, "in the light of thy countenance" (Ps. 44:3).

Foolishly, the Pharisees made the mistake of coming gradually to look upon these pious teachings transmitted orally in the schools as a veritable unwritten Torah on a par with the revealed word of God—equally holy, equally inspired, equally divine. This we must keep in mind: the *tout ensemble* of Pharisaic teaching, written and oral, went by the name of Torah, and the Scribes and the Pharisees were its custodians and interpreters. Torah meant to them their religion.

The defence of the Pharisees, then, takes off with this straightforward argument:

The Pharisees, say their apologists, were dedicated to the full strictness of the religion of Torah as they understood it, and they kept Torah a living religion by their progressive interpretations. Jesus, however good His teaching may have seemed, was not faithful to the religion of Torah. Conflict between Jesus and the Pharisees was therefore inevitable, and the

Pharisees cannot be blamed if in the disputes over healing and plucking corn on the sabbath, over the permissibility of divorce, and over ritualistic ablutions and purifications, they upheld their traditional understanding of their religion. Jesus in reality pitched His superlative personality against the received interpretation of the Jewish religion: therein lay the irreconcilable opposition between Him and His adversaries. Christianity is a religion founded on devotion to a Person, Christ; Judaism, and especially Pharisaism, is a religion founded on devotion to an idea, the Torah.[3]

Thus is emphasized the opposition between our Lord and the Pharisees. But in defence of the Pharisees it can also be said that they and Jesus occupied much common ground.[4] The originality of Jesus, we are told, has been exaggerated. Pharisaism was itself, independently of Jesus, a religion of joy: the sabbath was a joyous family festival and the joy at the pilgrimages was phenomenal. Pharisaism was a religion of mercy, for had it not mitigated the harsh penal code of the Sadducees? The Pharisees enjoined friendly relations with Gentiles. They taught respect for human personality and safeguarded the rights of women and even of slaves. They taught the transcendence and all-presence of God, His divine mercy, His Fatherhood. Against the Sadducees they taught belief in a future life and in the resurrection of the just. In a word, a Pharisee listening to the Sermon on the Mount was simply right at home.

What is more characteristic of Christian piety than the phrase " Our Father who art in heaven "? Yet Isaias centuries before had prayed, " Thou, O Lord art our Father " (63:16), and in the oral tradition of the rabbis at the end of the first century of our era we find the loving prayer: " Who is there on whom to lean, except Our Father who is in heaven? "[5] Or again, what is so tender as our Lord's phrase, " Are not two sparrows sold for a farthing, and not one of them shall fall on the ground without your Father " (Mt. 10:29)? Yet the rabbis had a similar saying: " A bird perishes not without Heaven ".[6]

[3] Herford, *Pharisaism*, c. 3 " Pharisaism and Jesus ", esp. pp. 167-8.

[4] H. Loewe in his chapter on " Pharisaism " in *Judaism and Christianity*, I, pp. 138ff., and Herford, *op. cit.*, pp. 117ff.

[5] Recorded of Rabbi Eliezer ben Horkenos in the Mishnah at the end of Chapter IX of Sotah and quoted in Herford, *op. cit.* p. 121.

[6] Herford, *op. cit.*, pp. 261-2.

We may say at once that as Catholics we find nothing strange in these similarities. To us it seems only natural that our Divine Lord in His public teaching should have used many phrases which He had heard from childhood in the synagogue. Whatever we may claim for the teaching of Jesus, we do not exaggerate its *verbal* originality of expression.

But we must hasten on to a third aspect of the defence of the Pharisees. How do these apologists deal with the evidence of the New Testament? Surely the testimony of the four Gospels, especially the Sermon on the Mount and the excoriation of the Pharisees at the hands of our Lord as recorded in the twenty-third chapter of St. Matthew, cannot be made to rhyme with the contention that Pharisaism, in teaching and in practice, was in the time of our Lord not far from being " religion pure and undefiled ". Listen to the facile reply of Mr. Loewe, Reader in Rabbinics, Queen's College, Cambridge: " I do not hold him (i. e. our Lord) responsible for Matthew twenty-three. It seems to me most natural to regard the chapter as intentionally altered by later hands. The objection to it is not the denunciations, but the fact that the denunciations are wholesale. That is the later element." [7]

Others, like Mr. Herford and the late Dr. Montefiore, explain the " uncharitableness " of Jesus toward His adversaries as evidence of his human imperfection, both of knowledge and of character. He was a man at bay, and it was only natural for Him to strike back.[8]

As for St. Paul, that Apostle after his conversion from Pharisaism must have experienced a complete mental " black-out ". " Paul's presentation of Pharisaism," writes Mr. Herford, " is . . . at its best a distortion, at its worst a fiction." [9]

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What are we to reply to these attempts to exonerate the Pharisees? We cannot allow any force to their device of throwing out of court the incriminating passages of the New Testament. All critical editions of the first Gospel retain the

[7] Loewe, *loc. cit.*, p. 159.

[8] Herford, *op. cit.*, p. 163, and Montefiore, " What a Jew Thinks About Jesus," *Hibbert Journal* 33 (July, 1935) pp. 511-520.

[9] *Op. cit.*, p. 191.

twenty-third chapter with the seven " woes " pronounced upon the Scribes and Pharisees. There is not a scrap of textual evidence against it. Moreover, the substance of Matthew twenty-three is found in Luke eleven (vv. 37-50) and twenty (vv. 45-47), and is of a piece with the threads of conflict between our Lord and His enemies running through the four Gospels.

If we are to meet these apologists on purely historical ground, we cannot invoke as arguments the divinity of our Lord or the inspiration of the New Testament documents. No, we must examine their assertions and assumptions to discover wherein lie the historical weaknesses of their apologetic.

First of all, is it right to assume that our Lord's condemnation of the Pharisees was *wholesale?* It seems not. Nicodemus, described by St. John as a Pharisee,[10] was certainly a good man. Gamaliel, likewise described as a Pharisee,[11] appears as a fair-minded seeker after truth. We have no grounds for ascribing to Simon the Pharisee, with whom our Lord dined,[12] the whole catalogue of vices of our Lord's denunciation. We know from Mark's narrative that our Lord praised the inquiring Scribe to whom He said, " Thou art not far from the kingdom of God " (12:34), and yet that Scribe, according to Matthew's account (22:35), was of the Pharisee party. So much for individuals of whom we can be certain.

Besides, it is evident from the Gospels that there was dissension among the Pharisees themselves over the claims made by Jesus. Some of that sect were quite frankly impressed by His miracles, and said so; others were not.[13] Again after our Lord's Resurrection and Ascension a number of Pharisees became Christians, some of whom (we may add) by their Judaizing made necessary the Council of Jerusalem.[14] The Pharisees were evidently a large, heterogeneous party.

[10] *John* 3:1.

[11] *Acts* 5:34.

[12] *Luke* 7:36ff.

[13] *John* 9:16 on the healing by Jesus of the man blind from birth. It is worth noticing that St. John by the term " the Jews " means especially the enemies of Jesus, the high priests and the Pharisees. There is some dissension among " the Jews " regarding Jesus, as recorded in *John* 10:19, 42 and 7:12. " The Jews " in 11:19 probably included Pharisees; yet they do not appear there as the adversaries of our Lord. See Lagrange, *L'Evangile selon S. Jean* (Paris, 1925), " Introduction " p. cxxxi, for the Joannine use of οἱ Ἰουδαῖοι.

[14] *Acts* 15:5.

Finally, would St. Paul after his conversion have boasted about his Pharisee upbringing if *all* Pharisees of that time had been as contemptible as those our Lord condemned? Three times the Apostle refers explicitly to his status as a Pharisee.[15] Elsewhere he again claims consideration because of the religious instruction he had received in Judaism; [16] and quite rightly, for it was the best his country and his religion had to give. We must recall that when St. Paul was held captive, it was a section of the Pharisees who were unwilling to condemn him.[17] Paul himself never characterized Pharisaism as a whole with the stigma of hypocrisy.[18]

We know from Josephus that there were over six thousand Pharisees in Palestine in the time of Herod the Great.[19] It is only reasonable to suppose, in the light of New Testament evidence, that our Lord condemned *the worst* of these, the members of the party who out of envy had formed a political cabal against Him. We cannot conclude that all Pharisees were tarred with the same brush. Hence, even if many of them were as holy as the well-selected texts of the rabbis might lead one to think, there seems to be room for them in the New Testament without doing violence to its text.

Moreover, we can find in rabbinical writings sure evidence of the very faults for which our Lord blamed the Pharisees of His day. Snobbery, censoriousness, externalism, a school-boy consciousness of virtue, a too legal righteousness, overemphasis of the letter of God's law at the expense of its spirit, hatred of enemies—their Talmud itself bears witness to these faults, and in our day a Liberal Jewish scholar like Dr. Montefiore is quite ready to concede the fact.[20] Montefiore's candor in this matter was the reason why he was called, in the obituary notice which appeared in the London *Times* for 11 July, 1938, " an Israelite indeed, in whom there was no guile ".

[15] *Acts* 23.6, 26.5; *Phil.* 3:5.

[16] *Gal.* 1:13-14.

[17] *Acts* 23:9-10.

[18] His attestation regarding the Pharisees in *Romans* 10:2, " For I bear them witness, that they have a zeal of God, but not according to knowledge ", though followed by a condemnation of their self-justification, has nevertheless a certain tenderness about it.

[19] *Antiquities,* XVII, 2, 4.

[20] *Rabbinic Literature and Gospel Teachings* pp. 21-22, 88, 102-4, 145, 169, 171, etc.

In regard to hypocrisy, we learn from rabbinic sources that, "Of ten parts of hypocrisy in the world, nine are in Jerusalem".[21]—And again, "the plague of Pharisees," a form of hypocrisy—"is one of the four causes of the ruin of the world".[22] Finally, we are told that there are seven kinds of Pharisees: [23] "The 'Shoulder Pharisee,' who bears his good deeds on his shoulder; the 'Wait a Little Pharisee,' who says, 'wait till I do my good deed;' the 'Bruised Pharisee,' who has hurt himself against a wall, to avoid looking at a woman; the 'Pestle Pharisee,' with his head down in mock humility; the 'Reckoning Pharisee,' who casts up his account of sins and virtues; the 'God-fearing Pharisee,' i. e. Job; the 'God-loving Pharisee,' i. e. Abraham."

These admissions regarding hypocrisy and ostentation come from rather late sources, and we need not overemphasize them. But so do many passages brought forward in praise of Pharisaism come from late sources. Moreover, these admissions confirm the antecedent likelihood of hypocrisy in a religion which laid so much stress on keeping clean the outside of the cup, and which made righteousness consist more in measurable justice than in immeasurable love.[24] The very circumstance of our being able to find such admissions in rabbinic literature at all tends not a little to bear out the truth of the Gospel picture of the Pharisees of Galilee and Judea in the time of our Lord. This shows again how unjustifiable it is to assume that rabbinic literature and the New Testament documents are wholly at odds in the way they delineate the character of Pharisees.

Our Lord's denunciation of the Pharisees cut the ground from under both the Pharisees of His own day and their modern apologists. The sect had without warrant bound up with divine revelation a mass of human traditions, and they had had the presumption to designate both elements in their teaching—

[21] Esther Rabba, Parashah i No. 17 on i. 3, cited by Montefiore, *op. cit.*, p. 119.

[22] Sotah, III, 4. See J. Bonsirven, S.J. *Le Judaisme Palestinien au Temps de Jésus-Christ: Sa Théologie* (Paris, 1935. 2 vols) I, p. 53; and Montefiore, *op. cit.*, p. 118.

[23] Sotah 22b. Loewe's translation is given here, taken from his essay in *Judaism and Christianity*, I, p. 186. Père Bonsirven adds, for what it may be worth, "Finally, it is remarkable that in many texts the word 'Pharisee' is used *en mauvaise part*", *op cit.*, I, p. 54.

[24] Bonsirven, *op. cit.*, I pp. 200-204. Herford expresses the contrast more favorably for his "Saints and Sages of Israel" by writing: "The watchword of the New Testament is Love. The watchword of the Talmud is Wisdom", *op. cit.*, p. 322.

the human as well as the divine—as if it were all equally Torah, divine teaching. By so doing they had riveted attention on human prescriptions, i. e. on *externals,* to the neglect of the " weightier things of the law, judgment, and mercy and faith ". This attitude of mind, which Mr. Herford asks us to understand and admire, our Divine Lord roundly censured. " You make void the commandment of God," He tells them,[25] " that you may keep your own tradition." That is why He protested against the wild overgrowth of Pharisaic legislation: " Every plant which my heavenly Father hath not planted shall be rooted up." [26] That is why in such matters as their endless purifications and ablutions and sabbath regulations and in their unwarrantable laxity in allowing divorce, He was bound to cross swords with the Pharisees.

Although we have all heard of the fantastic prescriptions of the Scribes and Pharisees, it might be well to remind ourselves how far-fetched they actually were. Many of them had to do with sabbath-observance. Using the simple injunctions of the Pentateuch as a spring-board, for their casuistic gymnastics, the Scribes determined that thirty-nine works were prohibited on the sabbath. One was making a knot; another was untying one. Such simple prohibitions were in turn worked up into fancy treatises. For example, " R. Meir says: Guilt is not incurred by reason of a knot which can be untied with one hand." [27] Since a woman might tie the strings of her girdle, it was agreed that a pail might be tied over a well with a girdle, but not with a rope. " One may not climb a tree, ride upon a horse, swim in the water, clap with the hands, strike upon the hips, or dance." [28] It was forbidden, too, to carry any garments which did not belong to clothing proper. A warrior could not carry his weapons. But " a cripple might, according to R. Meir, go out with his wooden leg. R. Joses, on the other hand, does not allow it." [29] Then there were the interminable

[25] *Mt.* 15:6.

[26] *Mt.* 15:13.

[27] E. Schurer, *A History of the Jewish People in the Time of Jesus Christ* (English Trans. Edinburgh, 1885), Vol. II, p. 98, from the treatise " Shabbath " in the Mishnah. The entire chapter in Schurer provides useful examples of Pharisaic prescriptions.

[28] Ibid., p. 102.

[29] *Ibid.,* p. 101.

ways in which vessels or utensils might contract legal impurity. "A (three-legged) table to which one foot is wanting, is clean; so is it if a second foot is gone; but if a third is also gone and it is to be used as a flat board, it is susceptible of defilement." [30] The legislating propensities of Pharisaism reached an all-time "high" about 260 A. D. when Rabbi Simlai succeeded in formulating "as many negative commandments as there are days in the solar year, and as many precepts as there are bones in a man"—by I know not what reckoning a total of six hundred and thirteen.[31]

In view of their myriad prescriptions, it was our Lord, and not the Pharisees, who could demand by what authority they taught these things, and neither they nor their modern apologists can return a satisfactory answer.

When our Lord declared,[32] "Upon the chair of Moses have sitten the Scribes and Pharisees; all things therefore whatsoever they shall say to you, observe and do," He could not have meant more than that the Scribes and Pharisees were to be obeyed when they proposed authentic Mosaic teaching.[33] Their teaching had no claim on the obedience of the Jews when they were trying to pass off their own legislative fabrications as divine law, and our Lord more than once took the lead in transgressing these human prescriptions to make clear the line beyond which Pharisaic teaching had not the sanction of the divine Torah. As St. Thomas notes, they were to be obeyed so long as they taught *secundum intentionem legislatoris.*[34]

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But the really critical question revolves around the historical value of the rabbinic documents. Jewish rabbis reduced their oral traditions to writing only as late as the year 190 A. D. in the volume called the *Mishnah.*[35] Besides the Mishnah, we have two versions of their voluminous scholastic commentaries on the Mishnah in the form of the *Talmud.* These were compiled in the fifth and sixth centuries of our era. From these sources

[30] *Ibid.*, p. 108.

[31] Bonsirven, *op. cit.*, II, p. 78.

[32] *Mt.* 23:2-3.

[33] Lagrange, *L'Evangile selon S. Matthieu* (Paris, 1923), *ad loc.*

[34] *In Matthaeum Evangelistam Expositio, ad loc.*

[35] Translated and edited by Herbert Danby, D.D. (Oxford, 1933).

the apologists of Pharisaism obtain the evidence which they oppose to the evidence of the New Testament documents.

What historical value have the Mishnah and the Talmud as evidence of the teaching and especially of the practice of the Pharisees of our Lord's day? A century and a half separated the final appearance of the Mishnah from the years of our Lord's public life. That is an uncomfortable gap to straddle. Moreover, during that interval two major catastrophes overtook the Jewish religion: the fall of Jerusalem in the year 70 A. D. and the total overthrow of the Jewish nation in the years following 130 A. D. Despite these calamities, we are assured by the apologists of Pharisaism that the rabbis adhered strictly to their traditions when they transplanted their religion from Jerusalem to other centers. The names of the rabbis of the transition period (R. Johann b. Zakkai, who died c. 80 A. D., and his five disciples) can be found in the Mishnah in the section entitled "Aboth," or "Fathers". But to this claim we may reply *Praesumptio cedit veritati:* we are able to give positive evidence that the Mishnah does not afford a wholly reliable account of earlier Pharisaism.

It is also worth noticing, before calling attention to this damaging evidence, that the year 70 A. D. is not the year we are concerned with, even if the Mishnah could be shown to represent the Pharisaism of that date. The fall of Jerusalem is forty years too late for our purpose. How can the pro-Pharisee critics guarantee the value of their documents as evidence of what the Pharisees taught and did in the year 30 of our era?

A further weakness of these rabbinic sources is that they consist exclusively of Pharisee documents. The Sadducees, the high-priestly party, disappeared with the destruction of the Temple in the year 70. Neither the Sadducees nor the Essenes (of whom we know something through Josephus and others) figure in the Mishnah, though both were very important in first-century Judaism. Nor do the Mishnah and the Talmud tell us anything about the various parties, sects, schools, and looser groups which in the opinion of a scholar like Dr. George Foot Moore of Harvard University very probably existed in Palestine during the lifetime of our Lord.[36] The Mishnah sim-

[36] Moore in his third volume of *Notes* (p. vi) gives these very reasons why his earlier volumes should not have been considered as an attempt at a reconstruction of Pharisaism in the time of Christ.

plifies the picture too much to be regarded as giving an adequate presentation of Judaism in the early first century. Without a complete reconstruction of *all* the elements of early first-century Judaism, however, how can anyone prove that there were not such Pharisees as those our Lord condemned? The fact is the rabbinic literature we have is simply unable to yield such a reconstruction, for it records, not Judaism of the time of Christ with all its lights and shades, but the later Judaism of the Pharisees. It is quite certain that the catastrophes of 70 and 130, in addition to the natural reaction against Christianity, produced among the Pharisees a unity they had not possessed in the time of Jesus.

One eminent English scholar, Burkitt, maintained that Pharisaism must have undergone a transformation in the course of the great misfortunes it suffered, and emerged a purer, more spiritual religion.[37] Indeed, we have strong evidence that in some respects at least the Mishnah reflects an idealized Judaism. Canon Danby, who has translated the Mishnah into English, argued with great cogency that the tractate "Sanhedrin" in the Mishnh does not describe a real governing body as it existed in our Lord's day.[38] Instead it presents an academic version of the Sanhedrin drawn on the model of the *reorganized* body of the late second century of our era, the Sanhedrin with which the editor of the Mishnah, Rabbi Jehudah, was familiar. And the late Israel Abrahams, Reader in Talmudic at the University of Cambridge, in sifting Canon Danby's evidence admitted that some things in the Mishnah read like products of the imagi-

[37] In *The Gospel History and Its Transmission*, pp. 169-174, quoted by Moore in a long "Note on Continuity of Normative Judaism", vol III, pp. 17-22. Moore accepts the substantial continuity of the teaching of the rabbis, while calling attention to the simplification which took place. Other scholars besides Burkitt, for example, Bousset, Gressmann, are cited by Moore as denying substantial continuity. In general, Moore's position seems to be compatible with acceptance of the Gospel version of Pharisaism, and since the names of none of the apologists of Pharisaism appear in the index to his volumes, one may conclude that he has not associated himself with their apologetic. I think we could accept his careful statement concerning the extent of our Lord's condemnation as given in Vol. I, p. 183. Why P. Bonsirven, in his extended review of Moore's work in *Recherches des Sciences Religieuses* 19 (1929) 283-294, should speak of Moore's *apologia* for the Pharisees, is not quite clear to me. He certainly did not write to defend them against the denunciation of Mt. 23. Herford, Montefiore, Abrahams, and Loewe did write with that explicit purpose.

[38] H. Danby, "The Bearing of the Rabbinical Criminal Code on the Jewish Trial Narratives in the Gospels", *Journal of Theological Studies* 21 (1919-1920) pp. 51-76.

nation.[39] We may conclude that in the Mishnah we are given a picture of Pharisaic Judaism as it appeared after it had had its face " lifted ".

Finally, what assurance have we that the carefully selected texts from the vast rabbinic literature served up by the apologists deserve to be considered *typical* of Pharisaic teaching.[40] What touchstone did Montefiore use when he rejected inconvenient texts as " negligible," " the usual Rabbinic paradoxes," and blamed Strack-Billerbeck for " taking playful exaggerations or casuistic enjoyments too seriously? "[41] Montefiore himself declared, " You can fish out from the Talmudic sea what suits your purpose."[42]

Our conclusions, then, are twofold. First, that the delineation of the Pharisees in the rabbinic sources and that given in the New Testament are not so contradictory as the apologists of Pharisaism make out; and secondly, that in so far as the two accounts do conflict, the version set forth in the New Testament deserves to be accepted against that of the Mishnah and the Talmud. For the New Testament contains documents of much higher historical value. They have emerged safe and sound after a century of testing at the hands of the higher critics. As for the Mishnah, no one has even produced a critical edition of it.

The apologists of the Pharisees, it is true, show great severity toward the Gospels as historical documents. But we may well bring this paper to a close with the apposite remark of an authority on Palestinian Judaism of the first century, Père Bonsirven, S.J., who declares: " The same severity applied to the Talmud would not leave a line of it standing."[43] Historically, then, the Gospel picture of the Pharisees remains in possession.

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[39] *Studies in Pharisaism*, II, p. 134.

[40] See *Recherches des Sciences Religieuses* 21 (1931) pp. 500-504 for a searching criticism of the methods employed by Montefiore in his *Rabbinic Literature and Gospel Teachings.*

[41] *Rabbinic Literature*, pp. 264-5, 213, 189, etc.

[42] Quoted in *Expository Times* 41(1929-30) p. 539.

[43] *Op. cit.*, I, p. x.

THE MORALITY OF ARTIFICIAL FECUNDATION.

THE FIRST REACTION of many priests to the subject of artificial fecundation is to consider it as quite impractical. This, I think, is a somewhat hasty judgment. Eminent theologians of the past half-century have judged this question to have its practical aspects; and most of the ordinary moral theology manuals of to-day give some space to it. And I am told that within the past year a popular novel appeared that developed the theme of artificial insemination as the solution of the otherwise thwarted life of an unmarried woman. It is not so long ago that the magazine, *Time*, gave not a little space to the question of " proxy fathers; " and only at the beginning of the present year another magazine, *Ken*, intrigued its readers with a very fantastic idea concerning fertilization without the aid of the male germ cell. Now, it is true that much of what our people read is sheer nonsense; nevertheless they read it, and, truth or nonsense, they ask us about it. For these, and other reasons that could be advanced, it seems that a discussion of the moral aspects of artificial insemination would not be useless for the practical-minded; and I am confident that it offers a large measure of interest to those inclined to speculation. Hence, I propose to give here a brief survey of the subject as it has been treated by the moralists of the past five decades and to expand a bit on one or two aspects of the question that they have not yet thoroughly discussed.

In the strict sense of the word, artificial fecundation comprises any attempt to fertilize a female by a means which is a substitute for natural sexual intercourse. Such a substitution might be called for in cases in which both husband and wife have normal procreative cells but by an organic malformation are prevented from having intercourse; or again in cases in which natural intercourse is rendered fruitless by an acid condition of the vagina which is fatal to the spermatozoa, and so forth.

Eschbach was, I believe, the first to introduce the question of artificial insemination into moral theology.[1] According to him, doctors were meeting with a certain degree of success in

[1] Cf. bibliography appended to this article. Unless otherwise specified, references to authors may be found in the works and numbers listed in the bibliography.

this matter; and the means which they most commonly preferred for obtaining the male germ cells was masturbation by the husband. Eschbach judged this to be immoral, the use of an intrinsically unlawful means to a good end. Lehmkuhl [2] agreed with Eschbach. But Palmieri,[3] after having first decided the act to be a pollution, offered the following objection toward which he seemed to incline rather favorably: Under such circumstances (namely, husband and wife unable to have natural intercourse), the seminal ejaculation would really be directed to the fecundation of a lawful spouse. There would be no real frustration of nature; and the child conceived would be legitimate. Berardi [4] sponsored this objection as his own opinion.

This was all before March, 1897, when the Holy Office issued a decree, approved by Leo XIII, condemning artificial fecundation as illicit.[5] Palmieri withdrew the offensive paragraph from the next edition of the *Opus Theologicum Morale;* [6] and Berardi retracted.[7] That the decree referred at least to masturbation is the unanimous opinion of theologians. That it included also the practice of obtaining the male germ cells by means of interrupted intercourse was Berardi's own opinion, as well as that of four "very learned men" whom he consulted about the meaning of the decree. And I might add that, among the works that I have studied, all that explicitly mention interrupted intercourse as a means of obtaining the male germ cells include this method in the condemnation.[8]

In one of the earlier editions of the Génicot-Salsmans *Casus Conscientiae*,[9] Father Salsmans gave his opinion that, in the case of infertility resulting from hyperacidity of the vagina, condomistic intercourse for the purpose of artificial insemination

[2] At least he states in the 1914 edition: (II, 1072) "Id mihi *semper* visum est a pollutione non distare ideoque esse illicitum." He did not treat the question in the very early editions of his Moral Theology.

[3] Cf. Ballerini-Palmieri: VI, 1304. (1892 edition).

[4] *Praxis Confessariorum,* n. 1009 (ed. 2a).

[5] A.S.S. 29 (17 Mar. 1897) 704.

[6] Third edition (1900), VI, 891.

[7] Third edition (1898), n. 1009.

[8] Cf. Berardi, Cappello, De Smet, Eschbach, Ferreres, Ione, Iorio, Noldin-Schmitt, Payen, Piscetta-Gennaro, Sabetti-Barrett, Tanquerey, Wernz, Wouters.

[9] Fourth edition (1922), casus 1125.

was probably licit. He has since withdrawn that opinion.[10] I know of no other work by a Catholic theologian that has even insinuated that such a practice would be lawful. Practically all the works in my own bibliography include interrupted and condomistic intercourse within the scope of the decree.

In view of the condemnation and of the general opinion of theologians, we may take this as a minimum working principle: artificial fecundation is unlawful, if it involves venereal activity which is of itself unnatural. This is true of masturbation and of interrupted or condomistic intercourse. It is true when there is question of artificially uniting the procreative cells of husband and wife; and it is of course true *a fortiori* if the parties are not united together in marriage.

The question now arises: Is any form of artificial fecundation permissible? Theologians generally speak of two methods as being either certainly or probably licit. Neither of these methods is artificial fertilization in the strict sense—that is, a substitute for intercourse. Rather they are merely aids to deficient organic conditions or physiological processes. The first of these consists of inserting some kind of instrument into the vagina before intercourse for the purpose of facilitating the passage of the spermatozoa into the womb. The second is used when sufficient penetration for probable fertilization is impossible. In this case the doctor uses a syringe to collect the male germ cells already deposited within the vagina and then forces them further up into the vagina or into the womb. Though a large number of theologians approve of this method,[11] some make the explicit restriction that the seminal deposit be not withdrawn from the confines of the vagina.[12]

The methods thus far outlined are the only ones treated by moralists who wrote in the early part of the present century. But about twenty years ago, Vermeersch enlivened the theological discussion by relating a means of insemination that would involve no abuse of the sexual processes. The male germ cells, he said, could be obtained by anal massage or by puncturing the

[10] Cf. Seventh edition (1938).

[11] Berardi, Bucceroni, Cappello, De Smet, Eschbach, Ferreres, Genicot-Salsmans, Ione, Iorio, Lehmkuhl, Marc-Gestermann, Merkelbach, Noldin-Schmitt, Palmieri, Payen, Piscetta-Gennaro, Sabetti-Barrett, Tanquerey, Ubach, Vermeersch, Wouters.

[12] De Smet, Merkelbach, Payen, Ubach.

epididymis.[13] Doctors with whom I have discussed this matter rather doubt the efficacy of the massage for fertilizing purposes; and they add that there is little danger of either method's becoming very common. Nevertheless, there is a possibility of this type of artificial fecundation; hence it is well for us to crystallize the principles according to which various cases might be solved.

The question, then, is: Is artificial fecundation permissible if the male cells are obtained without venereal activity? We shall consider the problem with reference to three cases: 1. between husband and wife; 2. between two unmarried persons; 3. between a married person and a third party, especially if the other spouse consents to the operation.

In introducing the first question, it may be useful to state that we presuppose a validly married couple, therefore a marriage contracted without antecedent and perpetual impotence. Furthermore, to avoid all confusion of issues, we can presuppose a marriage already consummated. Our only question, therefore, is: Is it licit, under certain circumstances, for such a married couple to have recourse to the form of artificial impregnation now under consideration?

Thirteen of the works that I have consulted take up the problem of this type of artificial insemination between husband and wife. Of these, six (Sabetti-Barrett, Cappello, Marc-Gestermann, DeSmet, Merkelbach, and Ubach) look upon it as illicit; seven (Génicot-Salsmans, Iorio, Noldin-Schmitt, Payen, Piscetta-Gennaro, Vermeersch, and Wouters) consider it as at least probably licit. Before examining the details of this controversy, it will be useful to give a brief analysis of certain fundamental notions concerning the right of married people to propagate.

In one sense, it seems fairly evident that married persons have what may be termed a merely indirect right to propagate. I refer to the right which each party acquires to the body of the other, a right to which the other party assumes a corresponding obligation. Thus, neither party is obliged in virtue of the marriage contract to submit to artificial fecundation upon the request of the other. The precise obligation to receive or give

[13] *De Castitate*, nn. 88, 241.

the germ cells is only indirect, namely, it is assumed only with reference to sexual intercourse, of which this receiving and giving are the natural culmination. So, since the right to give or receive is correlative to the obligation assumed, we may conclude that in this sense each party to the marriage contract acquires only an indirect right to propagate.

But, is this the only aspect under which their right to propagate can be considered? By marriage, these two, taken together and excluding all others, are set up by God as an adequate principle of human generation. They are the natural founders of a human family, evidently with some right to propagate their kind. Must we say that this is merely the indirect right indicated above, which belongs to the individual with respect to the other party; or is it not rather true that these two, as a new generative unit in society, have a direct right to propagate by any means which is not in itself wrong? Are not the married parties in very much the same situation regarding propagation as the individual is in regard to self-preservation? He has a natural right to preserve his life, and failing *normal* means he may use abnormal, or artificial, forms of nourishment. So, it seems that married people, when unable to generate by the normal means of sexual intercourse, may use abnormal means, provided that means be not sinful.

The foregoing analysis expresses the opinions of those who uphold the licitness of the type of artificial fecundation we are now discussing. Objections against the solution may be grouped into four classes. The first objection—advanced by Cappello, De Smet, and Barrett—consists simply of the assertion that the right to propagate is limited to the normal means of sexual intercourse. In the light of the analysis already given, we must reply that this limitation is not evident. It is true that some capacity for intercourse is required for contracting marriage; it is true also that the mutual rights and obligations of married people do not extend directly to any other procreative act. But it seems that some further proof or declaration of the Holy See is necessary before it can be said apodictically that they do not possess in common a right to propagate which allows them, by mutual consent, to have recourse to some extraordinary means of propagating which is not in itself sinful.

Merkelbach considers the means (extraction of the germ cells from the epididymis) as evil, places this in the same category as pollution and onanism, and specifies it as " ratione sui generationis impeditiva ". With due reverence, his parallelism must be denied and his terminology rejected. The expression, " ratione sui generationis impeditiva," implies the *abuse* of sexual processes. It applies therefore to pollution and onanism. But the puncture of the epididymis involves no use of the sexual *processes,* hence cannot properly be styled an abuse, an unnatural sexual act. Of itself, its intrinsic morality might partake of the nature of a minor mutilation, somewhat similar to that involved in a blood transfusion. Moreover, if extraction of seminal fluid from the epididymis were absolutely wrong (like pollution and onanism), it could never be allowed, and physicians could not resort to it even for examination purposes!

A third objection is that urged by Ubach: artificial fecundation of this type would render the married state ridiculous. For, if it is licit at all, it is always licit; and the married people could have recourse to it at will. And thus many of the natural purposes of matrimony would be thwarted.

Once more we can reply with reverence and suggest that this *reductio ad absurdum* seems to act somewhat like a boomerang. Surely the illustrious author did not think that the possibility of artificial impregnation would do away with the sexual impulse. Natural appetites have a way of asserting themselves. Men who can eat normally are not much inclined to feed themselves artificially; nor are people capable of normal fertile intercourse greatly tempted to forego that action for a means of fecundation which is, to say the least, a nuisance. Moreover, the implication that the authors who permit this type of artificial insemination for a grave reason should hold it as licit without any justifying reason is not a fair conclusion. Many things are listed by moralists as illicit without a justifying cause. The principle seems to apply rather generally to things which are notable departures from the *normal,* though not in themselves *unnatural.* The *normal* usually includes a certain degree of *well-being* in an action, and nature aims at this *well-being,* if it can be attained.

A final objection is this: there are dangers connected with artificial fecundation, dangers especially of deception. But in

all human affairs there are such dangers, even in normal married life. It is because of these dangers and because it is a pronounced departure from the normal method of having children that authors who admit the licitness of this type of artificial fecundation between husband and wife demand that it should be practised with great caution and resorted to only for a very serious reason.

To sum up. There is a very solid extrinsic authority for permitting this type of artificial fecundation between husband and wife, and it seems justifiable on intrinsic grounds. It has nothing in common with an unnatural sex act, such as pollution; or with a disordered sex act, such as fornication. In this method of fecundation, there is no frustration of the sexual processes; and the child thus conceived is the offspring of parents united in the stable bond of matrimony, and thus naturally apt and obligated to provide for its welfare.

The second case proposed for discussion was: May an unmarried women be artificially impregnated by cells extracted from an unmarried man? The theologians' answer to the question is an emphatic "no". Some [14] dismiss the subject with the mere statement that a woman has no right to fecundation, save by her lawful husband; some [15] add the intrinsic reason that the act does not make the provision demanded by the natural law for the care of the offspring. They refer to the principal philosophical argument for the necessity of marriage and the evil of fornication; an argument which is valid here because it is directed against fornication, not precisely as an act of disordered passion, but rather as a disordered generative act. Artificial insemination, consisting essentially of the giving and receiving of the procreative cells, is a generative act, and so must be governed by this law of nature which requires that such an act be placed only by persons united in the permanent bond of matrimony.

There is little need of delaying longer on this case. The argument suggested above can be found fully developed in St. Thomas,[16] his commentators,[17] and in many modern theological

[14] E. g., Palmieri, Lehmkuhl, Cappello, Merkelbach, Noldin-Schmitt, Tanquerey.

[15] E. g. Wouters, Vermeersch.

[16] *Contra Gentiles*, III, 122; *Secunda Secundae*, Q. 154, a. 2.

[17] Cf. especially Cajetan, in 2a 2ae, Q. 154, a. 2.

manuals.[18] Traditional Catholic theology teaches without equivocation that generative activity must be confined to the married state;[19] and no Catholic theologian could look with favor upon procreation by the unmarried.

To come now to our last case. Two married people are unable to have children. May they, by mutual consent, have recourse to a "proxy father," provided the germ cells be obtained from this third party without venereal activity?

Fundamentally, the question has already been answered. The parties to the fecundation are not man and wife, hence the law of nature forbids the operation. Nor does the guarantee offered by the married parties themselves furnish the natural provision required. Philosophically, such a compact to care for the child would be termed accidental; it is merely an exceptional case. The minimum absolute rules that nature has laid down for the good of the species admit of no exceptions.

Furthermore, married parties have no power to give such consent. For if their right to propagate is taken directly, it refers to the two parties themselves as a generative unit, and of its nature it excludes third parties. And if it is considered indirectly, as connected with their right to conjugal acts, then it is something essentially mutual and also exclusive of third parties. The consent of the husband might do away with the personal injury that would otherwise be inflicted on him; but it cannot take away the injury to the marriage bond.[20] Married people must take this bond as it has been established by God. Their various marriage rights are not communicable to others. The parties have a certain negative and limited control over their rights in the sense that under certain conditions they may abstain from using them. A change or a transfer of rights would mean a changing of the bond, for the bond actually consists of these marriage rights.[21]

Analyzing the present case more closely, we find other reasons for condemning it. It violates a sacred equality that should

[18] E. g. Wouters, *De Virtute Castitatis*, n. 33; Merkelbach, *De Castitate et Luxuria*, Q. 3, a. 1.

[19] Cf. *Casti Connubii*, A.A.S., 22, p. 546, "Neque. . . ."

[20] See proposition 50, condemned by Innocent XI, March 2, 1679: "Copula cum conjugata, consentiente marito, non est adulterium". (DB 1200).

[21] Schiffini, *Ethica Specialis* (1891), n. 364; Ford: *The Validity of Virginal Marriage*, p. 83.

exist between husband wife with respect to their child; and it jeopardizes the happiness of all three. The child is born into the world, not only without the natural guarantee of fatherly protection and love that he should have, but rather in circumstances which are of their nature apt to deprive him of this affection. He is flesh of his mother's flesh, but not of his father's; he is born a stepson; throughout his childhood days and on into the successes or failures of his manhood, he will be at least a potentially constant source of jealousy. By nature, the child should bind father and mother together; this child is more apt to divide their love.

There might be exceptions to the last argument; but it does outline the dangerous situation into which "third-party" fecundation places married people. Even if the practice were not wrong in itself, childless couples would do better to forego it and to adopt someone. With the adopted child they begin life on an equal footing.

This entire discussion may be summarized in a few brief sentences. Artificial insemination involving pollution or onanism is never lawful; but if married people who are unable to have natural fertile intercourse wish to resort to a means of impregnation which includes no abuse of the sexual functions, it is probable that they may do so. Between two parties who are not united together in marriage, no form of artificial fecundation is lawful.

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I. These works contain a rather complete treatment:

Iorio: *Theologia Moralis* (1934), II, 875, 876.
Payen: *De Matrimonio* (1936), II, 2110 ff.; also III, 2110 ff.
Wouters: *De Virtute Castitatis,* (1929 and 1932), n. 106.

II. Cf. also these general works on Moral Theology:

Arregui (1937), n. 806.
Ballerini-Palmieri (1892), VI, 1304; (1900), VI, 891.
Bucceroni (1915), IV, 1052.
Bulot (1908), II, 842, 883.
Ferreres (1932), II, 1137.
Génicot-Salsmans (1936), II, 545.
Ione: (1934-French ed), n. 749.
Lehmkuhl (1914), II, 1072.

Marc-Gestermann-Rauss (1934), II, 2118.
Merkelbach (1936), III, 938.
Noldin-Schmitt (1935), "De 6°", n. 77.
Piscetta-Gennaro (1934), VII, 249 ss.
Piscetta-Gennaro: *Summarium* (1938), n. 1017.
Prümmer (1936), III, 799.
Sabetti-Barrett (1931), n. 934 and add. 66.
Tanquerey (1936), I, "Suppl." n. 36.
Vermeersch (1933), IV, n. 64.
Ubach (1927), II, 866.

III. Confer also these more specialized works:

Berardi: *Praxis Confessariorum* (1898), nn. 1009, 1010.
Cappello: *De Matrimonio* (1933), n. 383-384.
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"CUPIDI CURIOSI GYROVAGI".

THE *De Imitatione Christi* has been frequently commended by editors and translators for its "simplicity". There is a sense in which this commendation is merited. The reader of almost any version of it into his own vernacular tongue will indeed find the highest ascetical truths conveyed to him in brief, quivering sentences that find their way easily into his mind and heart. The Golden Book is a masterpiece of brevity. In a certain sense, it is also clear, because its author avoided contention and disputation and tried to win all men to the cause of peace by the methods of peace. "He was simple, and he dipped his pen in simplicity."

The message he sought to deliver to men was capable of simple statement because the author had first of all understood it himself, and had thus merely to open to his readers his heart rather than his library. He did not content himself with the easy theory that a simple message, uttered in a slovenly fashion, could not be marred by a crude statement of it. He therefore knew the advantage of disciplined habits of expression. He went farther still, and added to a pleasing rhetoric a rare power of compression. And to this directness and brevity thus achieved he superadded rhythmic and rhymic cadences intended, doubtless, to emphasize certain thoughts and at the same time to make his message more attractive to the tastes of his own age. He was an artist in style. And, if we trust the theories of Carl Hirsche and the inferences of Dr. Cruise, we shall conclude that he had also mastered that *ars artium* of the refined writer, the trick or power to conceal his art; for it was not until comparatively recent years that the rhymes and rhythms faintly appreciated by modern ears in the Latin text of the *Imitation* were deemed capable of such analysis as sought to elevate them into a conscious and systematized art of expression on the part of Thomas à Kempis. If the feature of his artistry was intelligently appreciated in his own times, it had nevertheless been lost to the recognition of succeeding centuries down to the last quarter of the nineteenth century.

A good translation of the *Imitation* will of course try to preserve the simplicity of thought and the directness and brevity of the original Latin. While attempts have been made to pre-

serve also something of the rhythm of the original text, they do not seem to have succeeded in winning more readers for the wonderful book, because the Latin art was peculiar to itself and seems hardly to bear transplanting. Neither can the almost casual rhymic cadences be reproduced or pleasurably imitated. Thus does the reader of any version perforce miss the finer and subtler attributes of the Latin text. On the other hand, such a reader misses also the many perplexities of interpretation offered by the Latin text to a conscientious translator, and will be pleased to find everything " plain sailing " in his vernacular edition. He will thus be tempted to give back an enthusiastic echo to the praise lavished by commentators on the " simplicity " of the *Imitation*. He will in no wise glimpse the difficulties of interpretation encountered by a thoughtful reader of the Latin original. The translator, however, must choose only one of several divergent possibilities of interpretation. The choice made may be a wrong one, but his readers will not know or even suspect this. They will only know that everything is plain sailing for them.

From the point of view of a correct translation, the Latin text is far away from " simplicity " in some cases. Much has indeed been done to illustrate and to solve the difficulties, but I have thought that perhaps a comparative view of a number of variant interpretations might offer to my readers an interesting subject for speculation and for helpful suggestions as well. I have chosen three words, therefore, from Book III, chapter xxxii, section 1, which will probably cause no apprehension as to the correctness of their English rendering or mayhap as to the meaning of the Latin text itself when the words are read in that text. They appear to be quite simply intelligible in either case. Why should any difficulty be seen in them? We shall perhaps discern a difficulty nevertheless.

The thirty-second chapter of the Third Book (as it is commonly styled in both Latin and vernacular texts) is headed: " De abnegatione sui et abdicatione omnis cupiditatis ". In quoting the opening words of this chapter, it seems proper to use the text so critically edited by Pohl from the famous Autograph of 1441, rather than one of those many editions of the Latin which, by means of punctuation and paragraphing, sought perhaps to interpret the meaning of the original text of Thomas

à Kempis. The reader will notice, for instance, that Pohl gives us our three words in a sequence uninterrupted by commas, thus: *cupidi curiosi gyrovagi,* instead of *cupidi, curiosi, gyrovagi,* as commonly given in the ordinary books used by readers. Obviously, this latter printing is an interpretation. It may be correct in thus making substantives of *cupidi* and *curiosi,* instead of merely modifiers of *gyrovagi.* Nevertheless, it is an interpretation. We shall accordingly be neutral, and shall quote Pohl's text:

> Fili non potes perfectam possidere libertatem: nisi totaliter abneges temet ipsum. Compediti sunt omnes proprietarii et sui ipsius amatores, cupidi curiosi gyrovagi, quarentes semper mollia non quae Iesu Christi: sed hoc saepe fingentes et componentes quod non stabit.

In order to investigate the meaning of *cupidi curiosi gyrovagi* it may be found helpful to take each one of these words separately for easy scrutiny.

CUPIDI

What did Thomas wish us to understand by *cupidi?* Translators give us diverse answers to such a question. Let me number the interpretations.

1. A reader of the Latin would probably say that he meant "the covetous"—and let the investigation go at that; and he would, indeed, find many English versions favoring this simple view. In fact, the English tradition begins with this rendering, for the earliest English version, supposed to be some time before 1450, gives us "covetous," while that of "mayster wyllyam atkynson," dated 1502, gives us "couetous folke". The third version in chronological order, by Whytford, dated 1566, gives us "all covetous persons". And so on, with some variants, down the line.[1] Catholics and Protestants alike think *cupidi* should be rendered as *covetous.*

[1] The famous version of Fr. Anthony Hoskins, S.J., appearing in 1613, has "covetous"—a word which continues in the revision of his version by "M. C." (that is, Miles Car or Carre—the pseudonym of Fr. Miles Pinkney) in 1636: by "W. P(age)", chaplain to the Bishop of Winchester, in 1639; by "W. B." in 1702, published at Rouen. All these revisions, whether made by Catholics or Protestants, retain the word "covetous". Other versions, apparently based on that of Hoskins, have "covetous"; e. g. those of John Worthington (1654, under the title, apparently, of "The Christian's Pattern"); "H. G." (Cambridge, 1860) an

2. The support thus given to " covetous " is strong in numbers, in scholarship, and in the various religious tenets of the translators. But when, in 1737, the learned Bishop Challoner undertook a new version, he broke away from the traditional " covetous ". Dr. Cruise remarks: " We have good evidence that he closely followed the text of an earlier translation, which was published at Douai at the commencement of the preceding century, and was signed F. B. The translator was the Revd. Anthony Hoskins, S. J." Now Hoskins had used " covetous," but Challoner replaced the word with the phrase " full of desires ". An issue is forthwith seen between " covetous " and " full of desires ". Dr. Cruise chose Challoner for his model. He departed from it at times, but retained " full of desires ". Kegan Paul's translation (1881, and in several later editions) was professedly based on that of Challoner, and has " full of desires ". Kegan Paul and Dr. Cruise had the assistance of priestly scholarship.[2]

3. Meanwhile, " covetous " had been rejected by the Rev. Thomas Rogers (London, 1580), a Protestant who furnished his translation with a prodigiously long series of illustrative Scriptural quotations, and who rendered *cupidi* by " as manie as lust ". His version was professedly based on that of Castalio in classical Latin. It is not unlikely that Challoner consulted the version of Rogers, and could thus have made a selection

anonymous translator (1865, under the title, " Like Unto Christ ", whose 4th edition, much revised, still has " covetous "); the Rev. Dr. Bigg (Oxford, 1898); and the recent translations edited respectively by the Rev. Dr. Srawley, Canon Farrar, the Rev. W. H. Hutchings, Mr. Ellis, and Brother Leo, F.S.C. The recent version by Dr. Hyma (1927) and the version by Fr. Malaise (1937)—both depending on recently discovered Netherlandish texts—have " covetous ".

[2] Dr. Cruise said of his own translation: " I would have hesitated to attempt so responsible a task but for the kind promise of the Revd. Henry Browne, S.J., to assist me in the many difficulties of translating a work which, indeed, scarcely admits of satisfactory translation. Father Browne's eminent scholarship and critical acumen are guarantee of accuracy, so far as attainable. . . ." Similarly, with the name of Kegan Paul is coupled that of the Rev. Thomas A. Pope on the title-page of a volume which gives the version first issued in 1881 and which, in the large edition of 1892, professes to be based on the version of Challoner and to have taken account of all the known translations into English and some of those into foreign tongues. The two editors must, therefore, have been aware of the long and fairly constant tradition of " covetous " when, following Challoner, they replaced it by " full of desires ". The same rendering is retained in a revision of Challoner bearing the imprint of a New York publisher and the *imprimatur* of the Vicar-General of Tournai (1902), which sometimes alters the wording of Challoner. It seems clear that John Payne also was indebted to Challoner for this phrase in Payne's version (London, 1763).

between "covetous" and "as manie as lust". He chose neither. It is more than merely probable that he also consulted the anonymous translation issued by Thomas Meighan (1726, "in Drury Lane"), apparently meant for Catholics since it was the same Meighan, who, eleven years later, issued the first edition of Challoner's version. The 1726 version injected into the stream of translation a rendering of *cupidi* somewhat similar to that of Rogers, when it interpreted *cupidi* as "followers of pleasure". In a restricted classical meaning, *cupidi* will bear this sense. Nevertheless, we should be going out of our way to select such a bad meaning as against the commonest interpretation of the Latin word as simply "covetous". Although the version was presumably made by a Catholic for Catholics, Challoner (if he consulted it) concluded to depart from it here and replace it with "full of desires". Whether or not the anonymous version was consulted by succeeding translators, we can only make a more or less probable guess. At any rate, instead of "followers of pleasure" we come upon the more sordid word "lustful" in the translation made by a certain S. Smith (London, 1738) issued just one year after the appearance of Challoner's. In general, Smith apparently compressed the version by Worthington, but whereas Worthington had used "covetous," Smith broke away from his base in this instance in order to use "lustful". The strange word is once more in evidence in a translation published at Glasgow in 1774 with an introduction by Robert Keith. Since "as manie as lust," "followers of pleasure," and "lustful" have approximately the same general implications, we can consider them as belonging to category number 3.

4. Benham's admired version (London, 1874) gives us "the selfish" for *cupidi.* This is obviously a very comprehensive word.

5. A rhythmic translation into English under the title of "Musica Ecclesiastica" gives us "ambitious". This is clearly a restricted meaning.

We thus have these renderings of *cupidi:* covetous, full of desires, as manie as lust, followers of pleasure, lustful, the selfish, ambitious.

Now it is true that one may be covetous of many things—of honor, place, or power, as well as of the "neighbor's wife"

or of the " neighbor's goods ". The 9th and 10th Commandments do not comprise all the possibilities of covetousness. And so we may ask: " What did Thomas à Kempis wish us to understand by *cupidi*? "

Since *cupidus* is not found in the *Glossarium* of Du Cange, we exclude the supposition that the word had a peculiar medieval meaning. We are remitted to its meanings in classical Latinity. Generically it may mean covetous, greedy, avaricious, lustful. The word is found in four other places in the *Imitation*, but never in the sense of *lustful*. If " followers of pleasure " be meant in this sense, it should be excluded. Neither does "ambitious " occur there. Some foreign renderings give us " avaricious ". The word " selfish " is too vague. We therefore must select " covetous " or " full of desires ". Broadly, " covetous " is simply equivalent to " desirous," but in ordinary usage it has the bad meaning of ill-regulated desirousness and, more specifically, it means an unjust desire for property of some kind. Here, then, we shall see the four other uses made of the word in the *Imitation:*

i. Pleni veritate et gloria caelesti non sunt vanae gloriae *cupidi.*
ii. . . . sis . . . meae voluntatis *cupidus* aemulator.
iii. Natura *cupida* est et libentius accipit quam donat.
iv. . . . dole quod . . . sis . . . tam *cupidus* ad multa habenda.

Curiosi

Bishop Challoner contrived an affecting and a beautifully balanced rendering of *cupidi, curiosi* in his rendition: " full of desires, full of cares ". Related to *cura* in its sense of solicitude or carefulness, with the anxieties, cares and labors that are wont to attend solicitude, *curiosus* lends itself classically to Challoner's rendering. The diction of Horace merited the encomium bestowed upon it by Petronius, for its *felicitas* was not due to inspired negligence, but was *curiosa,* the result of laborious artistry. De Quincey, commending this carefulness in the Horatian lyrics, declared that " the elaborate delicacy of workmanship in his thoughts and in his style, argue a scale of labor that, as against any equal number of lines in Lucretius, would measure itself by months against days. There are single odes in Horace that must have cost him a six-weeks' seclusion from the wickedness of Rome."

In this meaning of *curiosi,* however, the one intended by Thomas à Kempis? There is apparently a division of opinion here among the editors who have ventured to amend Challoner's version. The version (based on Challoner's) issued by Kegan Paul in 1881 changes " full of cares " into " inquisitive ". In classical Latin, *curiosus* has this meaning also, in both a good and a bad sense. As an English rendering, " curious " is neutral; " inquisitive " is also neutral, but tends toward a bad sense; and " prying " is used only in a bad sense.

The learned Kempisian, Dr. Cruise, doubtless aware of Kegan Paul's rendering, nevertheless differed both from him and from Challoner (whom he professed to use as a basis for his own translation), and gives us the neutral word " curious ". On the other hand, the anonymous editor of Challoner's version (Tournai, 1902), who on occasion amends the wording of Challoner, retains " full of cares ". So, too, does John Payne.

Probably Challoner had under his eyes an anonymous translation which Thomas Meighan, Challoner's publisher, had issued eleven years earlier and which gives us the rendering, " nice ". We can only surmise what the translator wished to convey by " nice ". The word can mean many things, and amongst them such quite relevant and probable meanings as: delicate, soft, tender to excess, fastidious, exacting, difficult to please. In any case, " nice " seems to approach nearer to *curiosus* in its sense of " careful " than of " inquisitive ". Whoso would render *curiosa felicitas* as " curious felicity " would be using *curiosa* in the sense of *nicety* or *preciosity.* I believe " nice " to be a unique rendering, and I will not detain my readers longer in its consideration. The *Imitation* has *curiose* twice, *curiositas* six times, and *curiosus* (in its various cases) thirteen times. Among these uses, I doubt that any one would support the rendering implied by the " full of cares " of Challoner's translation. Meanwhile, the term, *curiosa felicitas,* justly rendered as " laboriously-attained agreeableness," would be very near Challoner's idea of the meaning of the *Imitation.*

S. Smith and R. Keith render *curiosi* by " busy ". Rogers had already used " curious, busie-bodies ". While " busy " has ordinarily only good intimations, " busybody " has only the bad meaning of one who officiously or impertinently meddles in the

affairs of other folk. One sense of " busy " does, however, share this odium of *inquisitiveness, prying, impertinent meddling*. Such a rendering would approximate " inquisitiveness " rather than " full of cares ".

In English translations, then, we find these renderings of *curiosi:* curious, nice, busy, meddling, inquisitive, full of cares, careful about many things. So far as I am aware, " nice " is found only once; " busy ", twice; " full of cares ", thrice; " careful about many things," once; " inquisitive ", six times. All the others I recall having consulted, use the ambiguous " curious ".[3]

Of the French versions I have consulted, " curieux " is the prominent rendering. It is in the earliest French translation and in the 4th edition of Dumas; in the famous version of M. de Marillac and in the revision based on Rosweyde's Latin text: in the versions by Girard, De Beuil, Lallemant, Genoude, De Bellegarde, in the one ascribed to De Gonnelieu, and in Van Gorp's revision of Petetin's version. In Italian, the early version of 1522, and the excellent one of Turin (1771, which I strongly suspect to have been from the pen of Archbishop Martini) have " curiosi ". The version into classical Latin (ed. Philips, 1900) has of course " curiosi ".

It is especially interesting to note the two renderings made, not from the Latin text of Thomas à Kempis, but from recently discovered Netherlandish manuscripts which lead some scholars to declare that the real author of the *Imitation* was Gerard Groote. In his translation based most largely on these texts, Dr. Hyma renders the word as " inquisitive " (New York and London, 1927). On the other hand, Fr. Malaise, S.J., in his translation from the Netherlandish text, (New York, 1937), renders *curiosi* literally as " the curious ".

[3] The traditional preference for " curious " is thus notably prominent. It begins with the earliest English translation (*circa* 1450), proceeds through the version of Atkynson (1502), Whytford (1556), Rogers (1580), Hoskins (1613) and his revisers (Pinkney, Page, W. B.), Worthington (1665) and his subsequent editions; also it is found in " Like Unto Christ ", the rhythmical " Musica Ecclesiastica," the recent editions by Benham, Hutchings, Cruise, Ellis, Brother Leo. This tradition begins at the source and continues, with few breaks, down to the most recent translations. Dr. Hyma (1927) has " inquisitive ". The latest version is that of Fr. Malaise and simply has " curious ". Thus the cycle began with the earliest English edition and, in Fr. Malaise's version, may end with " curious " as a rendering of *curiosi.*

GYROVAGI

In the bright lexicon of youth, there is no such word as *gyrovagus*. It is not "classical," and is equally unknown to such condensed dictionaries as that of Cassell and to the elaborate volumes of Freund and Andrews. One is therefore apt to be startled at finding *gyrovagi* retained in the classical Latinity of the *Libri quatuor de imitando Christum*, the *editio nova ad sententiam Auctoris secundum politiorem formam Romanam dicendi accuratius exprimendam* issued serially in the monthly *Praeco Latinus* and later in volume form edited by Ferdinand Philips (Philadelphia, 1901). This translator from medieval Latinity into classical Latin had consulted many translations into English, French, German, and had also obtained the revisory assistance of nine competent friends. Apparently their best judgment was that *gyrovagi*, although not a classical word, had better be allowed to remain as it stands in the Golden Book of the *Imitation*. Meanwhile, we may ask: "Is *gyrovagi* quite self-explanatory?"

The earliest English translation has "wanderers about". The next in date (Atkynson's) startles us, nevertheless, with "vainglorious". The third (Whytford's) has "runners about". Rogers (1580) adds a touch of liveliness and vivid portraiture in his rendering, "gossips". "F. B." and his revisers are content with "wanderers", and Ellis and Brother Leo find this word satisfactory. In contrast with this conciseness, the version styled "Like Unto Christ" swelled the word into "who wander from place to place". Hutchings condenses this into "who wander about". Payne (*pro more!*) greatly elaborates and very probably degrades this by his rendering, "restless wanderers in the narrow circle of sensual pleasure"—although the word "circle" does agree with the *gyro* of *gyrovagus*. Smith, and after him Keith, give us "unsettled men;" Meighan, "unsettled people," and Challoner condenses this into "unsettled". "H. G." has "hunters after pleasure". Benham has simply "the restless".

Later translators into English, men of assured ability and of careful as well as diligent zeal, seem to agree with the thought of Rogers, and give us variously "gossipers" (thus Kegan Paul and Sir Francis Cruise), "the gossipers" (thus Dr. Bigg), and

" gossiping " (thus Dr. Srawley and Dr. Hyma). But our most recent translation according to the Netherlandish text as rendered into English by Fr. Malaise gives us " the frivolous ".

Of the various obsolete or modern meanings of " gossip," doubtless that one is implied which makes of the gossiper an idle tattler who goes about from place to place exchanging news or chatter; and we may exclude the derived meaning of a " scandal-monger ". " Gossiping " and " the gossipers " will then follow as derivatives from " gossip ".

We have thus arrived at a concrete and fairly vivid idea of *gyrovagi*—an idea which excludes the mere " wanderers about " (whether pilgrims, idlers, or tramps—Knights of the Road, as it were), the " unsettled people," the " vain-glorious," the " restless," the " hunters after pleasure," and Payne's " restless wanderers in the narrow circle of sensual pleasure ".

I do not, however, find this somewhat modest idea of mere *gossiping* in the various translations into foreign tongues which I have (rather casually) consulted. In Spanish, Fr. Nieremberg has " vagamundos;" in Italian, the Tuscan version of 1522 has " vagabondi," as also has that of Archbishop Martini (?) in 1761. In French, Marillac has " instables;" Genoude, " inquiets;" Girard, Van Gorp and Dumas, " inconstants ". The earliest French version has a phrase which might at first sight suggest " gossiping " (" qui ne font que aller et venir ") but which on second thought is found to approximate rather to the idea of " instables," " inquiets," " inconstants," or De Beuil's " vagabons et inquiets," or De Bellegarde's " remuants et vagabonds." Among the more recent French equivalents are those of Van Gorp, and of Dumas; and so we have not so much the idea of " gossipping " as merely of " fickleness ".

Now the question arises: " What did Thomas à Kempis (I don't say, Gerard Groote—for I have not access to the Netherlandish text, nor could I construe it if I had access to it) expect his readers to understand by his *cupidi curiosi gyrovagi?* What picture was he pen-painting for us? Was he employing *gyrovagi* in some one of its medieval senses, or was he using it in an etymological fashion? Inasmuch as the *Imitation* was probably addressed specifically to those who were leading a monastic life, we might suppose that he was using *gyrovagi* in its technical

meaning of monks who, on one or other pretense ("nescio qua pietatis vana specie", as Du Cange remarks), left their monasteries and wandered from house to house or, staying in their own house, wandered from cell to cell (to "pass the time of day" as it were). Such as these drew down on themselves the warning of St. Benedict's Rule (cap. 1): "Quartum genus est monachorum, quod nominatur *Gyrovagum:* qui tota vita sua per diversorum cellas hospitantur, semper vagi, et nunquam stabiles, et propriis voluptatibus et gulae illecebris servientes. . . ."

No suggestion of such implication of *gyrovagi* is given, however, by the translators whose work has fallen under my eye or by any Note for a reader's interpretation. The word *gyrovagus* was also applied to priests who left their parishes and became wanderers on the face of the earth, to be seen "everywhere" (said Ratherius of Verona), and to be referred to by everybody as *gyrovagi,* no doubt as a shameful epithet. Finally, the word was also applied to any persons who wandered about without any fixed habitation.

The author of the *Imitation* declared: "*Compediti* sunt omnes proprietarii et . . . cupidi curiosi *gyrovagi.* . . ." Might not his two words which I have italicized have been borrowed from the remark in the *Vita S. Isidori Hispalensis* (no. 17)? Its author wrote: "Ne occasione comperta, vana quaeque per *gyrovagationem* meditando, mentem a studio revocarent, ferreis astringebat *compedibus?*"

Du Cange gave illustrations of *gyrovagari, gyrovagatio, gyrovagi,* all in the sense, apparently, of aimless wandering or gadding about. But is it not quite probable that Thomas applied the word *gyrovagi* with greater etymological strictness, and wished his readers to understand that such folk were wandering about in a sort of circle (like the queer so-called *music* of to-day that "goes round and round" without getting anywhere) and making no spiritual progress—perchance like the circles Dante had in mind in his *Inferno? Gyrovagus* was doubtless better known to Thomas than the extremely rare classical word *circumvagus.*

Let me conclude this overly long paper with the Latin text of the full paragraph and with the renderings by Dr. Hyma in 1927 and Fr. Malaise in 1937.

Compediti sunt omnes proprietarii et sui ipsius amatores, cupidi, curiosi, gyrovagi, quaerentes semper mollia, non quae Jesu-Christi sunt, sed hoc saepe fingentes et componentes quod non stabit.

Dr. Hyma

They are all in fetters who seek their own interests and are lovers of themselves, covetous, inquisitive, gossiping, always seeking what is pleasant, not the things of Jesus Christ, but often devising and framing that which will not last.

Fr. Malaise

All those who seek and love themselves are held and tied down by interior fetters, they are the covetous, the curious, the frivolous who always "turn to the weak element," not to the things of Jesus Christ, and who often desire that which cannot last. (*Gal.* iv, 9).

There is a notable discrepancy between Hyma's "always seeking what is pleasant" (Latin: "quaerentes semper mollia") and Malaise's "always 'turn to the weak element'" (Gal. iv. 9). Does the Netherlandish text include the words of Gal. iv. 9? Or does Fr. Malaise simply clarify the original text here, somewhat as did Dr. Postel in a footnote (p. 166) to his edition of the Latin text (Paris, 1867) by quoting: "Omnes enim quae sua sunt quaerunt, non quae sunt Jesu-Christi. *Philipp.* ii, 21?"

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SOME QUESTIONS ON VITIATED MARITAL CONSENT.—III.

XII.

THUS far, the question of validity or nullity in its speculative or theoretical aspect has been discussed in the June and the July number of the REVIEW. But it is one thing to have speculative certainty of the nullity of an undesired marriage bond, and quite another thing to attain freedom to marry anew in the Catholic fold. For however clearly a contractual or his spiritual adviser may seem to see that the marriage is invalid, it is not therewith allowed him to enter upon new nuptials before the nullity of the prior marriage be certainly and canonically established by proof (c. 1069, § 2).

The proving of any case of fictitious consent is very difficult because consent depends upon an act of the will which of itself is entirely internal, intangible and hidden, and because it is possible for the contractual parties to change their will at any moment without giving the least exterior sign of it. In cases of partial simulation of consent there is in particular the difficulty of determining whether the perverse intent was ever really that positive act of the will mentioned in canon 1086, § 2; and still further, whether the intent excluded from the contract the very substance of marriage, i. e. the rights and obligations themselves; and finally, whether this perverse intent was retained at the time of contracting marriage (c. 1092, 2°: "conditio semel apposita et non revocata").

When a juridical contract had been formally entered upon according to the visibly required terms of the public law, the Roman law presumed that the parties wished to enter a valid contract, and held to the validity of the consent ostensibly given.[1] Conformable to this principle, the Church holds that, when a marriage has been contracted in form, the ostensibly given consent is internal, i. e. genuine, earnest and conformable to the external words or signs used in the marriage ceremony (c. 1086, § 1); and that the marriage is valid (c. 1014). The presumption favoring the validity of the consent and marriage holds against the assertion of a contractual that the consent was invalid because of restrictions affecting the substance of mar-

[1] L. 7, ff. De Supell. Ligat. (Dig. 33, 10.)

riage. If it is claimed that there was an intent against the substance of marriage on the part of one or both parties, the presumption is against this claim, and the parties are presumed to have willed the marriage in its entirety.[2] For an invalidating intent against the marriage is a positive act of the will, which is not to be presumed but must be proved like other facts.

However, the presumption of the validity of consent is not inevitable, i. e. its force is not so peremptory that the ecclesiastical judge must invariably render decision that the consent is valid, as though the presumption itself had made the matter already adjudged (*praesumptio iuris et de iure*). Rather, the presumption of validity holds only until the contrary is proved (c. 1014); proof of invalid consent is admissible, and the presumption must give way before a proved contrary truth, if the proof be strictly conclusive.[3] In this respect the canon law differs from our civil law, which inclines to an inevitable presumption of consent, and to make a person "chargeable with the natural consequences of his acts, whether he intended them or not".[4]

The contrary truth, i. e., invalidity of consent, is proved from the acknowledgment or confession of the simulating contractual together with the proved reason or cause of the perverse intent; from words spoken and the circumstances; and from presumption. As with all cases of vitiated consent, it is doubly hard to establish partial simulation of consent and nullity of marriage, unless there is an acknowledgment or confession of the perverse intent on the part of him who is said to have held such an intent.[5] When such confession is forthcoming, it is noted and considered, but even when both contractuals concur, it is not alone full or sufficient proof of the case.

[2] R., Null. c. Sebastianelli, 7 feb. 1914 (rd., vi, p. 59).

[3] R., Null. c. Parrillo, 5 dec. 1927 (rd., xix, p. 499); Mohilovien, Null. c. Guglielmi, 20 feb. 1929 (rd., xxi, p. 120); Null. c. Morano, 6 aug. 1929 (rd., xxi, p. 386).

[4] McKelvey, The Law of Evidence, (ed. 1907), p. 106.

[5] R., Massillien., Null. c. Prior, 10 aug. 1912 (rd., iv, p. 406); Null. c. Morano, 6 aug. 1929 (rd., xxi, p. 381); Leodien., Null. c. Guglielmi, 28 jun. 1930 (rd., xxii, p. 377).

XIII.

Simulation of consent is not proved unless a reason for the simulation be shown. Hence it is axiomatic that, in order to prove a marriage has been voided by perverse intent, there be first of all proof of a reason (*causa*) for the intent.[6] The reason for restricting consent by perverse intent must be sharply distinguished from the reason, cause or motive of marriage. Thus it may happen that a person agrees to marry because he believes he can be later divorced and marry anew ("error dans causam contractui": c. 1091); this will not be sufficient reason for the positive intent claimed to have existed against indissolubility.

The reason for the perverse intent may vary according to the benefit that is excluded from marriage, and according to the peculiar circumstances of each case. Thus, infirmity or poverty may be the reason for the exclusion of the benefit of progeny; duress imposed to dissolve a concubinage may be the reason why he who is forced to marry a third party excludes the benefit of fidelity, by reserving a so-called right or obligation toward the concubine.

The reason for simulation must be grave, specific and sufficient, i. e. proportionate to the claim that is made by the plaintiff, due attention being given to the natural character and disposition of the simulating person, and to the circumstances.[7] The desire to obtain money through marrying a rich wife is not a reason proportionate to the claim of intent to divorce or restrict the exclusiveness of the marriage, since the money is as easily obtained by a true as by a fictitious marriage.[8] It need not be shown, however, that the reason for the perverse intent is in itself grave, true or relevant, providing there be proof that the contractual who held the perverse intent had considered it to be grave, true and relevant.[9] Thus when a husband is shown to have stipulated against the benefit of progeny because he feared lest his children inherit haemophilia from him, this reason for the stipulation is not invalidated by the objective fact

[6] R., Null. c. Lega, 30 aug. 1911 (rd. iii, p. 470); Null. c. Prior, 13 dec. 1912 (rd., iv, p. 466); Oregonopol., Null. c. Prior, 6 jul. 1914 (rd., vi, p. 246).

[7] R., Oregonopol., Null. c. Prior, 6 jul. 1914 (rd., vi, pp. 245, 246).

[8] R., Null. c. Jullien., 9 jul. 1930 (rd., xxii, pp. 377, 378).

[9] Cfr. Null. c. Prior, 9 jul. 1911 (rd., iii, p. 241); Null. c. Prior 8 mart. 1913 (rd., v, p. 211); Oregonopol., Null. c. Prior, 6 jul. 1914 (rd., vi, p. 246).

that haemophilia is inherited only from the female descendants of the blood. Much less need it be shown that the reason for simulation was honorable in its purpose.

From the reason shown it will sometimes be possible for the judge to determine whether the true object of the perverse intent was the marital right and obligation itself, or merely the non-fulfilment and abuse,[10] and likewise, whether there was a positive act of the will in the perverse intent.

XIV.

It must be proved that the perverse intent was conceived as a positive act of the will, and that the object of the intent was the exclusion of the substance of marriage.[11] Proof of this is derived from testimony or documents concerning the words spoken by the contractuals; for words are the clearest indicators of the mind's intent.[12] The interpretation given by the listeners to the contractual's words at the time they were spoken also indicates his true intention; but later interpretations are of lesser value.[13] Yet, the words spoken are not alone decisive: frequently they are equivocal; frequently they are not exactly expressive of the true interior intent; hence it is necessary that the judge avoid hasty conclusions respecting the intent, derived merely from pertinent words spoken by a contractual.[14] Most of all it is necessary to beware of testimonies that affirm, without giving any concomitant circumstances, that the contractual stated a perverse proposal or expressed a condition or agreement.[15]

Hence the true intent of the contractual is demonstrated from the words spoken together with the antecedent, concomitant and subsequent circumstances of the case.[16] Among the

[10] Cfr. R., Null. c. Quattrocolo, 16 apr. 1928 (rd., xx, p. 119); Null. c. Grazioli, 19 dec. 1930 (rd., xxii, p. 672).

[11] R., Null. c. Parrillo, 29 apr. 1922 (rd., xiv, p. 124).

[12] Cfr. R., Neo-Eboracen., Null. c. Lega, 9 dec. 1911 (rd., iii, p. 517); Null. c. Guglielmi, 11 feb. 1929 (rd., xxi, p. 103).

[13] R., Parisien., Null. c. Jullien, 5 jun. 1929 (rd. xxi, p. 216).

[14] R., Null. c. Jullien., 25 nov. 1924 (rd., xvi, p. 406): "quia magis inspicitur substantia dispositionis et mens disponentium, quam cortex verborum."; Cfr. S.C.S.O., Instr. ad Ep. Nesquallien., 24 jan. 1877 (cicf., iv, n. 1050); R., Null. c. Jullien., 10 feb. 1926 (rd., xviii, p. 32); Null. c. Jullien., 28 apr. 1928 (rd., xx, p. 143).

[15] R., Null. c. Quattrocolo, 16 apr. 1928 (rd., xx, p. 117).

[16] S.C.S.O., Instr. ad Ep. Nesquallien., 24 jan. 1877 (cicf., iv, n. 1050, p. 373); S.C.D.S., Instr. 15 aug. 1936, art. 174 (Acta Ap. Sedis, xxviii, p. 346): " . . . in

antecedents from which the judge may derive a personal presumption are the hilarity or sadness of a party over the approaching nuptials,[17] the character and disposition of the contractual, together with his view of marriage,[18] the detestation of the proposed spouse,[19] the known determination to gain some purpose incompatible with the exchanging of the true rights of marriage,[20] vasectomy performed.[21]

Among the concomitant circumstances there is duress imposed, even though it be insufficient of itself to cause invalidity under the terms of canon 1087, § 1, and the determination of a party to marry another, or to keep another in open concubinage. The desire not to have children, or the abhorrence of them, is a circumstance pointing to an intent against the benefit of progeny, but it is not in itself an exclusion of the marital right and obligation.[22]

Among the subsequent circumstances are immediate flight after marriage,[23] immediate or postponed coition,[24] constant use of contraceptives from the first day of marriage, procuring of abortion,[25] birth of children,[26] constant continuation of meretricious relations with another from the first day of marriage.

Full proof of the circumstances favorable to nullity cannot derive from a judicial confession or testimony of the parties.[27]

XV.

As an aid in determining where the truth is in these questions, the Roman Curia has built up by its usage and pronouncements certain processual effects or rules of evidence or presump-

causis quae spectant ad consensus defectum . . . instructoris est curare, ut circumstantiae proferantur in lucem, quae matrimonium praecesserunt, comitatae vel secutae sunt."

[17] R., Null. c. Prior, 20 mai. 1912 (rd. iv, p. 248).

[18] R., Null. c. Chimenti, 23 nov. 1923 (rd., xv, p. 276); Null. c. Massimi, 1 mart. 1924 (rd., xvi, p. 77); Null. c. Massimi, 7 feb. 1925 (rd., xvii, p. 66).

[19] Cfr., R., Null. c. Prior, 18 jun. 1911 (rd., iii, p. 349).

[20] R., Null. c. Chimenti, 23 nov. 1923 (rd, xv, p. 276).

[21] Gasp. (ed. 1904) ii, n. 923; (ed. 1932) ii, n. 829.

[22] R., Null. c. Grazioli, 21 jul. 1930 (rd., xxii, p. 430).

[23] R., Null. c. Prior, 18 jun. 1911 (rd., iii, p. 351); Null. c. Parrillo, 18 jul. 1923 (rd., xv, p. 167).

[24] R., Harlemen., Null. c. Grazioli, 26 mart. 1930 (rd., xxii, p. 189).

[25] R., Null. c. Massimi, 9 mai. 1928 (rd., xx, pp. 182, 183).

[26] R., Null. c. Jullien., 10 feb. 1926 (rd., xviii, p. 31).

[27] R., Null. c. Florczak, 7 jun. 1927 (rd., xix, p. 213).

tions deriving from the external, proved facts of the case. These are not legal presumptions in the proper and primary sense of the word, for they are not established by the law itself (cfr. c. 1825, § 1): neither the Code nor the subsequent Instruction of the Congregation of the Sacraments mentions them. In a wider sense, however, these presumptions are legal; for they have been established by the courts in the act of interpreting the law to cases. Hence the Rota makes use now, as formerly, of the presumptions established by past jurisprudence, even though no mention of them is made in the Code. And diocesan judges may likewise follow the same rules of evidence.[28]

The external fact from which the Curia has principally and above all drawn rules of evidence with respect to the nature of the internal consent, is the unilateral or bilateral quality of the perverse intention. The constant ruling and practice has been to inquire whether the perverse intent was reduced to bilateral pact, for, in that case, the rule of evidence is favorable to the contractual who contests the marriage. It is not the pact, as such, that invalidates the marriage: if a contractual form a positive unilateral intent restricting or denying the benefits of marriage, this is just as effective in voiding the marriage as a pact to the same end. But the unilateral intent has not the same processual effect; it gives a different rule for the overcoming of the judicial doubt.

It is a rule of evidence that, when there is a bilateral pact restricting the benefits of marriage, (1) the object matter of the perverse intention is thereby shown to center upon the marital rights and obligations themselves, in contradistinction to the mere violation of marital rights or the non-fulfilment of the obligations, and (2) the subject or persons who have thus stipulated are thereby shown to have formed a positive perverse intent rather than to have been laboring under a simple error or actuated by a merely habitual intention.[29] For it is of the nature of bilateral pacts, whether stipulations, agreements, con-

[28] Chelodi, n. 10: "In C. matrimonii praesumpti expresse mentio non fit, quod non impedit quominus, in iudiciis matrimonialibus . . . multiplices dari possint praesumptiones facti . . ."; Roberti, De Processibus (1926) ii, p. 107(1): "Aliae praesumptiones consueverunt adduci ex naturali aequitate . . ."; Capello, iii, n. 640; Hilling, Studium zum Eherecht in Archiv fuer katholisches Kirchenrecht, 1922, p. 7.

[29] Ben. XIV, De Synodo Dioec. Lib. XIII, c. 22, n. 7: "Certissimum est argumentum"; similarly Pius VI ad Archiep. Praegen., 11 jul. 1789.

tracts or conditions, that positive purposes be formed and that rights, whether true or imaginary or assumed rights, be secured and restricted, and that obligations be determined, rather than that the mere non-fulfilment of obligations be agreed upon.[30]

Thus, direct proof is aided by legal presumption: if, for any reason, there remain a doubt whether the bilateral stipulation centered on the rights and obligations themselves or merely upon the violation of rights and the non-fulfilment of the obligations, it is presumed that the rights and obligations themselves were restricted, and thus the general presumption for the validity of marriage is overcome.[31] Thus when there has been a bilateral stipulation to avoid progeny by perverse coition or contraception, and it is doubted whether the perverse intention of the contractuals was merely a will to violate the obligation of parenthood and progeny, or whether it was a will not to accept this obligation, the presumption holds that there was a will not to accept the obligation, and this invalidates the marriage.[32] Similarly, when there has been a bilateral stipulation against fidelity and exclusiveness of marriage, and it is doubted whether a contractual, by his intent, restricted the obligation of marital fidelity and the right to the exclusive use of his body, or whether he merely intended to violate the right by future debauchery, it will be presumed that the right and obligation themselves were affected by his perverse intent, and the marriage is thus invalid.[33] So too, when the intention to divorce and remarry has been stipulated by bilateral pact, either by the formula used in the marriage ceremony or in some other previous agreement, there is a presumption that it was not merely a doctrinal error or habitual intention contrary to indissolubility that lurked in the minds of the contractuals, but rather that there was a positive intention contrary to perpetuity, and the marriage is thus invalid. Similarly, if a marriage be contracted with the intention of engaging in marital coition only during the sterile period,

[30] R., Null. c. Massimi, 9 jul. 1927 (rd., xix, p. 304).

[31] C. 7, X, IV, 5: "matrimonialis contractus, quantumcunque sit favorabilis, caret effectu."

[32] R., Null. c. Lega et omnibus, 17 jan. 1912 (rd., iv, p. 50); Null. c. Prior, 31 mart. 1922 (rd., xiv, p. 89); Null. c. Parrillo, 29 apr. 1922 (rd., xiv, p. 123); Null. c. Grazioli, 19 apr. 1926 (rd., xviii, p. 144); Null. c. Parrillo, 5 dec. 1927 (rd., xix, pp. 499, 503, 504); Null. c. Massimi, 9 mai. 1928 (rd., xx, p. 186).

[33] R., Null. c. Massimi, 7 feb. 1925 (rd., xvii, pp. 63, 65).

and this intent be stipulated by bilateral pact, there is a presumption that the contractuals meant to restrict to intermittent periods, not only the use of their right, but the right itself.

The presumption that derives from the bilateral quality of a stipulation against progeny or fidelity or perpetuity is not however inevitable, and consequently admits proof to the contrary. For this reason authors state precautiously that a perverse pact invalidates marriage *if* the object of the pact be the denial of the marital rights and obligations themselves.[34] This clause, following *if*, would be entirely superfluous and meaningless, were the presumption of invalidity inevitable in these cases.

Particularly with regard to a pact wherein the contractuals agree that they shall engage in marital coition only during the sterile period, does it seem to me that proof against the presumption must be admitted; and it would be misleading and dangerous to state that all marriages are to be declared invalid which were preceded by such a pact. Catholic couples who thus agree beforehand to engage in coition only during the sterile period, whether they agree because of reasons that are grave and allowable, or from reasons that are frivolous and hence culpable, do so, generally, because they want their marriage to be nevertheless sacred and free from the unnatural irregularities of modern contraceptive practices. Hence, when they have reduced their intent to bilateral pact, it is much easier to overcome the presumption against validity than it is when there has been a pact against the natural use of marriage, or against the exclusive use of one spouse, or against indissolubility by divorce. It is in this sense that Cardinal Gasparri writes that the marriage is valid if " salvo ipso iure " it has been entered into with the condition that chastity be observed " feria sexta singulis hebdomadis." [35] Hence it seems that those authors have overstated the case who assert that a condition to

[34] Thus, Chelodi, p. 135, nota 3: " . . . conditiones: 'dummodo post primum vel alterum filium prolem evitemus' . . . irritum faciunt matrimonium si contrahentes ius ad rectum usum excludere intenderunt, at contra si tantummodo secundaria aderat intentio abutendi coniugio."

[35] Gasp. (ed. 1904), ii, n. 1008; (ed. 1932), ii, n. 900;—The words of Parrillo are pertinent in R., Constantinopol. Null., 30 jun. 1925 (rd., xvii, p. 270), although written in a case where the claim was that the benefit of progeny had been excluded by intent to use contraceptives: " At, si huiusmodi pactum . . . aliqua limitatione temporis . . . intercedat . . . praesumendum tunc est, non obligationem, sed huius implementum limitatum fuisse, cum difficile esset diversa in hypothesi coniectari, ipsam obligationem fuisse interim subductam, limitatione temporis transacta."

engage in marital coition only during the sterile period invalidates the marriage in practice, even though theoretically there could be question of validity.[36]

To ascertain in such cases whether the presumption deriving from the prenuptial pact is overcome: whether the truth is that the contractuals meant only to determine the time suitable to them for the exercise of their marital right, rather than to restrict that right itself, it is useless to propose to them a question in terms of " right " and " use ". But let the judge ask whether they intended ever to beget progeny; whether they thought they could, in good conscience, change their mind after marriage, and engage in coition during the fertile period; whether they would have considered a child begotten by them, contrary to their wishes, as one born of lawful wedlock.

To the end of establishing the rule of evidence against validity, it is essential that there be, in a real and incontrovertible sense, a pact between the parties, by which at least one contractual meant to bind himself and the other to the fulfilment of the perverse proposal, and the other accepted and agreed, at least apparently, upon the perverse obligation for herself. A coincidence of perverse proposals arising from the like perverse ideology of each, or a mere demand, condition or proposal that is communicated by one party to the other and received by the other as a policy of conduct, does not meet the requirements and is not to be considered as a real pact to the effect mentioned.[37] If however, there is a real pact it is immaterial whether the pact be written or verbal,[38] whether it be made at the moment of the marriage ceremony or before; whether it be guaranteed by sanctions or not; whether it be explicitly or implicitly accepted and agreed upon by the second party. Even languid, unwilling acceptance and agreement brings

[36] Irish Ecclesiastical Record, xlix (Jan. 1937), p. 87 thus quotes Wouters, Manuale Theologiae Moralis, ii, § 711, and Vlaming, Praelectiones Juris Matrimonialis, ii, § 547.

[37] R., Null. c. Massimi, 9 jul. 1927 (rd., xix, p. 304) and c. Guglielmi, 11 feb. 1928 (rd., xx, p. 54); Null. c. Quattrocolo, 16 apr. 1928 (rd., xx, p. 116); Null. c. Florczak, 13 jul. 1928 (rd., xx, p. 334) and c. Massimi, 9 aug. 1929 (rd., xxi, p. 419); Null. c. Mannucci, 29 dec. 1928 (rd., xx, p. 509) and c. Massimi, 14 jan. 1930 (rd., xxii, p. 53).

[38] In R., Null. c. Prior, 10 jun. 1922 (rd., xiv, p. 179 fol.) and Null. c. Massimi, 7 feb. 1925 (rd., xvii, p. 61 fol.) the intent was reduced to written pact, signed by both parties, and deposited with a notary.

the stipulation into the realm of bilateral pacts.[39] Likewise if the first party coerces the other into accepting the perverse stipulation, the stipulation is thereby reduced to pact, and the presumption of validity is overcome.[40] Even if the second party only seemingly agrees to the proposed perverse stipulation, i. e. pretends to stipulate or agree, but means in her heart not to act according to the perverse proposal, this fictitious consent has the effect of giving the perverse proposal the status of a bilateral pact, to the end that the presumption in favor of the marriage be overcome.[41] Of course, the fictitious acceptance of the stipulation cannot have an invalidating influence on the marriage itself; such influence derives, in the case, entirely from the positive and real intention of the first party, contrary to the substance of marriage.

XVI.

Thus far we have been determining the processual effects or rules of evidence that derive from a bilateral pact; we must now consider conditions *sine qua non* in this light, to determine whether the perverse bilateral pact must be made in the form of a condition in order that the mentioned processual effects derive; and then especially, whether such a condition affixed to the consent of only one party, gives rise to the same processual effects. This is a difficult question. Canon 1092, 2° says, as we saw above, that a condition, i. e. a positive and expressed intent contrary to the substance of marriage, voids the marriage, but it does not say the expressing this intent in the form of a condition *sine qua non* determines, as a rule of evidence, that the contractual's perverse intent affected the substance of marriage, i. e. the marital rights and obligations themselves, rather than merely the fulfilment of them; or that, in case of doubt, the judge is to presume a positive intent against the perpetuity of marriage rather than a mere error or habitual intention. Whether the affixing of the unilateral condition establishes a rule of evidence therefore, and what rule, must be derived from other sources.

[39] R., Null. c. Parrillo, 5 dec. 1927 (rd., xix, pp. 505, 506).
[40] R., Null. c. Mannucci, 7 jul. 1926 (rd., xviii, p. 222).
[41] R., Null. c. Massimi, 8 aug. 1929 (rd., xxi, p. 423).

And first, the nature of the case must be considered: if it is proved that a contractual made his perverse stipulation a condition *sine qua non* of his consent to marry, this is peremptory proof of his positive perverse intent. Hence, if there were otherwise doubt whether the contractual's perversity were an act of the mind only, such as error or habitual intention, or whether it was an act of the will, i. e. positive intent, the having given consent to the marriage under a condition *sine qua non*, gives proof of the positive intent.[42] Yet, since it is almost impossible to imagine such a condition as anything other than a strongly expressed intent, unless it be communicated to and accepted by the other party (and then there is a bilateral pact), the question is hardly more than speculative, and can hardly help the judge in a practical marriage case.

As to determining the object of a perverse intent, i. e. as to showing that the perverse intent affected the very substance of marriage, the nature of conditions *sine qua non* lends no effective help; that is to say: no judge will presume that a contractual intended to exclude the marital rights and obligations themselves, rather than the mere correct use of rights and fulfilment of obligations, simply because a contractual expressed his unilateral perverse intent in the form of a condition. For while it is of the nature of bilateral pacts that rights be determined and restricted, rather than that the mere abuse of rights be connived at, it is not in the nature of unilateral conditions to do more than assert that consent is given dependently: nothing in the nature of a unilateral condition determines that the consent was made dependent upon restricted rights, rather than upon the abuse of rights and non-fulfilment of obligations. Thus, as to determining whether the contractual's intent was to exclude rights, or merely to abuse them, there is no peremptory argument derivable from the condition *sine qua non*, unless it be reduced to bilateral pact.

Some authors write that the perverse intent is shown to have struck at the substance of marriage if it has been formed as a unilateral condition *sine qua non*.[43] Similarly, some few Rotal

[42] R., Paderbornen., Null. c. Sebastianelli, 27 jul. 1917 (rd., ix, p. 162).

[43] Capello, iii, nn. 631, 4'; 634, 3', 4' who however is careful in other passages to state that the condition may refer only to the abuse of rights; Gasp. (ed. 1932), ii, nn. 892-906 likewise constantly calls attention that the judge must see whether

decisions declare, in passing and without examining the question *ex professo,* that a unilateral condition *sine qua non* carries the presumption that the perverse intent expressed by the condition affects the marital rights and obligations rather than the mere non-fulfilment of them.[44] All these implicitly interpret canon 1092, 2°, first as being governed by a condition *sine qua non,* then as implying a presumption against validity. This seems to be less helpful and less correct. It is less correct in the first item because canon 1092, 2° is not governed by conditions *sine qua non,* but indicates only conditions *cum qua non,* as we saw above. It is less correct in the second item because it ignores the otherwise constant jurisprudence of the past, and arbitrarily sets up a presumption on the ground of canon 1092, 2° when, in fact, the canon expresses no presumption here. And it is less helpful because, in practice, greater difficulty is experienced in proving that a unilateral stipulation was really a condition that made the marital consent dependent upon the stipulation, than in proving directly that the perverse intent affected the real substance of the marriage.[45]

The declarations and decisions of the Roman Curia, taken in their entirety, plainly show that the presumption derives only from a bilateral pact. Benedict XIV states indeed that the rule of evidence derives from conditions: "Si . . . conditionem apponunt . . . certissimum est argumentum. . . ." But this must be understood only of conditions that are reduced to pact by the agreement of both parties to the perverse thing stipulated. For in this matter it is simply the language of the canon law or *stylus Curiae,* as it had been with the classical Latins, to use the word *conditio* to express the idea of bilateral pact (con + dico).[46] This usage is derived from the older declarations of the Holy Office.[47] Thus the Rota has understood the

the condition excluded the rights, or only the correct use of them; so too, Nau, Marriage Laws of the Code of Canon Law, 1933, n. 110.

[44] Thus, R., Null. c. Solieri, 12 aug. 1926 (rd., xviii, p. 332); Null. c. Grazioli, 9 feb. 1927 (rd., xix, p. 44); Westmonasterien., Null. c. Grazioli, 11 apr. 1927 (rd., xix, p. 107); Null. c. Grazioli, 4 mai. 1927 (rd., xix, p. 164); Null. c. Grazioli, 19 dec. 1930 (rd., xxii, p. 671).

[45] Cfr. R., Null. c. Solieri, 12 aug. 1926 (rd., xviii, p. 332); Lehmkuhl, ii, n. 886.

[46] S.C.C., Parisien., 31 jan. 1891 (cicf., vi, n. 4282, pp. 709, 710): "Non abs re erit notare, quod in stylo S. C. *expressa* conditio valeat "pactum."

[47] S.C.S.O. (Bosniae) 2 dec. 1680 (cicf., iv, n. 755): "Si ista sint deducta in

famous Chapter of Gregory IX: " Si conditiones " as pertinent only to conditions agreed upon by both parties.[48]

Hence for the determining of the object of the perverse intent, i. e. whether the intent excluded or limited the rights and obligations of marriage, the more correct and only practical rule of evidence for unilateral conditions does not differ from that of a positive perverse intention expressed by a party but not brought into separate pact. This has been confirmed by the Rota in various cases,[49] and has not been left unnoticed by authors.[50] Hence too, whether any argument respecting the object of the perverse intent is derived from a unilateral condition's having been affixed, depends upon the content, quality and number of the testimonies, just as in other cases where the perverse intent has not been agreed upon by separate pact between the contractuals.

Hence too, it is immaterial to the application of the presumption against the validity of marriage, whether the bilateral stipulation was made precisely in the form of a condition *sine qua non,* or whether the stipulation was simply a contract between the parties that they would live their married lives under restricted rights and obligations (c. cum qua non in pactum deducta).[51] Similarly, if one party does propose to the other a perverse condition *sine qua non* it is immaterial whether or not the second party restates the perverse intention as a condition *sine qua non* of her consent; it is entirely sufficient that the condition or positive intent of the first party be communicated to the other as a binding agreement, and that there be acceptance of and agreement to the perverse obligation.

pactum, seu (not: VEL) cum ista conditione sint contracta, . . ."; S.C.S.O. (Tahiti), 19 aug. 1857 (cicf., iv, n. 945): " . . . cum expressa repudii conditione in pactum deducta, . . ."; S.C.S.O. (Nesquallien.) 24 jan. 1877 (cicf., iv. n. 1050, p. 374): " Fiant ergo . . . investigationes: utrum praesertim aliqua conditio contra matrimonii substantiam fuerit expresse in pactum inter contrahentes deducta. . . ."

[48] R., Null. c. Persiani, 6 dec. 1909 (rd., i, p. 161); Null. c. Massimi, 9 mai. 1928 (rd., xx, pp. 178, 180, 186); Null. c. Jullien., 23 mart. 1925 (rd., xvii, p. 131); Null. c. Jullien., 10 feb. 1926 (rd., xviii, p. 23).

[49] R., Null. c. Mori, 24 jul. 1909 (rd. i, p. 106); Null. c. Lega et omnibus, 17 jan. 1912 (rd., iv, pp. 50, 53); Null. c. Prior, 10 dec. 1914 (rd., vi, pp. 342, 348); Null. c. Parrillo, 29 apr. 1922 (rd., xiv, p. 123); Null. c. Parrillo, 5 dec. 1927 (rd., xix, pp. 499, 503, 504); Null. c. Parrillo, 7 jan. 1929 (rd., xxi, p. 15).

[50] Lehmkuhl, ii, n. 880; Linneborn, p. 285; Triebs, Handbuch des kanonischen Eherechts (1933), p. 495.

[51] R., Null. c. Jullien., 26 jun. 1925 (rd., xvii, p. 267).

XVII.

In cases of perverse intent not reduced to separate bilateral pact there is a different rule of evidence: the presumption in favor of true marital consent is not peremptorily overcome, but continues in its full vigor until further facts have been proved by testimonies, documents and the like, which clearly show the marital consent to have been vitiated in its substance.

If there is no proof of this, or if the proofs are not conclusive, the presumption is against the claimant. When it is shown that there was some irregularity on the part of one of the contractuals, e. g. with respect to willing an indissoluble union, but it is doubtful whether this irregularity amounted to a positive intention on the one hand, or merely to an habitual intention or simple error on the other, the presumption holds for a merely simple error or habitual intention.[52] When it is proved that there was a positive perverse intent on the part of one of the contractuals, with respect to the basic obligations of unity and progeny, but the object of this intent remains doubtful, the general presumption stands for the party's having taken the obligation with the intention of not fulfilling it.[53] Similarly, when it is shown that there was an intent of preserving perfect chastity in married life, or of using the marriage only during the sterile period, but it remains doubtful whether the contractuals intended not to confer or to confer only a limited right to coition, or merely not to make use of their right, the presumption stands for their having conferred the right but with the intention not to use it.[54]

This general presumption is not easily overcome. Still, there may be facts proved that overcome it, and establish a more specific and pertinent presumption to the contrary. The first

[52] Ben. XIV, De Synodo Dioec., Lib. XXIII, c. xxii, n. 7; S.C.C. Parisien., 31 jan. 1891 (cicf., v, n. 4282, p. 710); R., Neo-Eboracen., Null. c. Prior, 8 feb. 1915 (rd., vii, pp. 23, 24, 28); Null. c. Massimi, 1 mart. 1924 (rd., xvi, p. 75); Null. c. Solieri, 16 jul. 1927 (rd., xix, p. 308); Leodien., Null. c. Guglielmi, 28 jun. 1930 (rd., xxii, p. 376).

[53] R., Null. c. Lega et omnibus, 17 jan. 1912 (rd., iv, p. 50); Null. c. Prior, 10 dec. 1914 (rd., vi, p. 345); Null. c. Sebastianelli, 15 dec. 1915 (rd., vii, p. 461); Null., 31 oct. 1919 (rd., xi, p. 146); Null. c. Jullien., 23 mart. 1925 (rd., xvii, p. 131); Null. c. Massimi, 9 jul. 1927 (rd., xix, p. 300); Null. c. Parrillo, 5 dec. 1927 (rd., xix, p. 499); Null. c. Morano, 6 aug. 1929 (rd., xxi, p. 381); Parisien., Null. c. Quattrocolo, 31 jul. 1930 (rd., xxii, p. 507, 510).

[54] Cfr. the strange case of R., Harlemen., Null. c. Guglielmi, 26 mart. 1930 (rd., xxii, p. 176 fol.).

source of such a more specific and pertinent presumption to the contrary is the forethought of the contractual who entertained the perverse intent: if it be shown that a contractual explicitly spoke of the marital rights and obligations as such, or weighed the rights and obligations as an explicit offset to his perverse intent, this will be an argument that the right and obligation, rather than the mere abuse of them, were excluded from his intent. If on the other hand, he had never thought of rights and obligations in respect to his intent, the presumption is that he did not exclude them.[55]

The second source of presumption to the contrary is the universality of the perverse intent: if a contractual is shown to have excluded *all* future progeny from his consent, making no limitation to the perverse intent, the presumption is that the consent was so restricted as to exclude the basic obligation and right to progeny.[56] If a person limits, in his intent, the number of children he is going to have, or the time during which he is going to beget children, this limitation may possibly pertain to the marriage right itself: yet when there is such a limitation the general presumption favoring marriage holds; for as long as the contractual does not intend to practice his abuse universally, it is presumed that he intended to accept the obligations of marriage, but intended also to violate them, at times.[57]

Not every curbing of the perverse intent however leads peremptorily to the conclusion that merely the fulfilment of the obligation was at issue. In a case where the intent to avoid progeny arose from aversion to the other party, the wife confessed that she was wishing and waiting for the time when she could love the husband and beget children from him. But the

[55] R., Null. c. Mannucci, 29 dec. 1928 (rd., xx, p. 508); Chelodi, n. 125 (p. 136).

[56] R., Null. c. Chimenti et omnibus, 23 nov. 1923 (rd., xv, p. 290); Null. c. Solieri, 13 feb. 1925 (rd., xvii, p. 79); Null. c. Jullien, 23 mart. 1925 (rd., xviii, p. 131); Null. c. Florczak, 5 jun. 1926 (rd., xviii, p. 192); Null. c. Mannucci, 7 jul. 1926 (rd., xviii, p. 222), c. Parrillo, 5 dec. 1927 (rd., xix, pp. 501, 502, 504); Westmonasterien., Null. c. Grazioli, 14 mart. 1930 (rd., xxii, p. 172); Gasp. (ed. 1904), ii, n. 1010; Somewhat similarly Triebs, p. 534.

[57] R., Null. c. Jullien., 30 mart. 1926 (rd., xviii, p. 103); Null. c. Florczak, 5 jun. 1926 (rd., xviii, p. 192); Null. c. Guglielmi, 18 dec. 1926 (rd., xviii, p. 418); Null. c. Grazioli, 9 feb. 1927 (rd., xix, p. 47); Null. c. Quattrocolo, 16 apr. 1928 (rd., xx, p. 119); Gasp. (ed. 1904), ii, n. 1006; (ed. 1932), ii, n. 898; Capello, iii, n. 601; Vermeersch-Creusen, ii, p. 268 (n. 381); Rzewnicki, in Jus Pontificium, viii (1928), p. 102.

Rota did not conclude from this that her intent merely touched the fulfilment of obligations. For the words and actions of this woman plainly showed that there was no curbing of the period of time during which she intended to avoid progeny, and thus the time limitation itself was but a deceptive appearance; for it hinged upon the acquirement of love at some future, indistinct and certainly not expected time; so that it was plain she did not intend to convey a right to beget children.[58] In another case where the stipulation had been affixed against the benefit of progeny because of the disastrous financial condition of the husband, the Rota refused to interpret this as the well known limitation "donec in meliorem fortunam deveniamus," but rather as simply expressive of the cause or reason which begot the stipulation in the party's will, without limiting it to any period of time.[59]

When it is doubtful whether the perverse intent was limited to a period of time, or whether it extended to the whole duration of the wedded life, an indication of the truth may be obtained by inquiring into the cause or reason of the perverse intent. If the reason was of a lasting nature, e. g. lasting social disease, the perverse intent will be interpreted as covering the whole span of wedded life.[60] This conclusion was nullified by other contrary circumstances however in a recent case before Grazioli.[61]

A question of special difficulty arises if the contractuals have entered upon a bilateral pact stipulating against the benefits of marriage for a limited time: is the judge to presume, because of the perverse intent's having been reduced to pact, that the object of the pact was the marital right and obligation, or is he to presume that the object of the pact was merely the abuse of marital right, because the contractuals' perverse intent was not universal, and because of the presumption in favor of marriage?

[58] Null. c. Chimenti, 14 mart. 1924 (rd., xvi, pp. 108, 110).

[59] R., Null. c. Chimenti et omnibus, 23 nov. 1923 (rd., xv, p. 292); this decision reversed the earlier decisions of the Roman Vicariate, 14 mart. 1906, and of the Congregation of the Council, 12 dec. 1906, and of the Rota, c. Persiani, 9 dec. 1909 (rd., i, p. 155), and c. Lega et omnibus, 17 jan. 1912 (rd., iv., p. 33), all of which had declared for validity. When appeal was made against it to the Apostolic Signature, this Supreme Tribunal confirmed the decision of nullity, 30 jul. 1924.

[60] R., Null. c. Florczak, 5 jun. 1926 (rd., xviii, pp. 192, 199); and c. Massimi, 28 nov. 1928 (rd., xx, pp. 472, 473).

[61] R., Null. 9 feb. 1927 (rd., xix, p. 47).

The decisions of the Rota regularly hold to the presumption of validity of marriage, and affirm the perverse intent must be thought to have affected only the fulfilment of obligations.[62] This however, does not seem to be beyond dispute. For when, previous to the marriage, an incontrovertible pact has been entered upon, v. g. to avoid, by contraceptives, all further progeny after two children are born, it is difficult to see how this can be interpreted otherwise than as a limiting by contract of the very right and obligation to progeny; for pacts commonly determine rights. Hence, it seems to me that the customary jurisprudence of the Rota need not be received strictly as a rule of law in such a case; the less so, since the judge is free to estimate the pact and intent according to his conscience (c. 1869, § 3).

XVIII.

To declare a marriage invalid by reason of vitiated consent, it must be evident that the proved positive intent which would void the marriage, has not been withdrawn before, or in the moment of, marriage. The gloss to c. 26, De Sponsalibus et Matrimonio, IV, 1 declared that, when a man enters upon a public marriage, his making a protest that he is not about to give true consent, even though the protest be openly declared by him before the marriage, cannot avail for later declaring the marriage invalid, because he can always change his mind up to and in the moment of marriage, and after marriage must be presumed to have done so. Sometimes the courts followed this rule and applied it to cases of stipulation against the substance of marriage.[63] Sometimes they followed the axiom of the Roman law: he who asserts a change of will must show it.[64] This variance of opinion and decision has now been brought to an end. A special Commission of Cardinals was delegated in 1918 to try a case from Versailles that had been veritably tossed about from one court to another. This Commission established

[62] E. g., R., Null. c. Parrillo, 29 apr. 1922 (rd., xiv, p. 124); Null. v. Parrillo, 5 dec. 1927 (rd., xix, pp. 501, 502); Null. c. Parrillo, 7 jan. 1929 (rd., xxi, p. 15); Similarly Blat, De Sac., p. 620.

[63] E. g., R., Null. c. Sebastianelli, 19 jun. 1909 (rd., i, pp. 71, 72); Null. c. Mori, 24 jul. 1909 (rd., i, p. 106).

[64] S.C.C., Ulixbonnen., 8 jul. 1874 (cicf., v, n. 3278); R., Null. c. Perathoner, 11 aug. 1910 (rd., ii, p. 311).

the principle that the withdrawal of a stipulation is to be considered as a positive act or fact, which must be proved and is not to be presumed. Hence, when there is no proof that a stipulation has been withdrawn, its continuance is to be presumed.[65] This rule has been followed since then, almost with unanimity, whenever the withdrawal of a condition or intent contrary to the substance of marriage was at issue before the Rota.[66] Hence in a case wherein the Rota declared under Solieri that the wife was to be presumed to have withdrawn her perverse intent because she had not proved that it continued in force up to the time of the marriage, the court of appeal, under Massimi, did not sustain this principle, but rather the contrary rule, and pronounced the marriage invalid.[67] Similarly, in another case wherein the court stated the same principle under Solieri, the court of appeal under Massimi disagreed with the sentence *quoad hoc,* although, because there were not sufficient proofs of the perverse intent, it confirmed the decision of validity.[68]

The withdrawal of a contractual's perverse intent then, must be proved. Proof of this may be derived from the silence or contradiction of the other party, if the contradiction or silence so coincide with other proved circumstances as to overcome the presumption of non-withdrawal. In a case where the woman had expressed a stipulation against progeny, but her bethrothed had opposed this to the extent of threatening to break off the engagement, the woman's not having insisted upon her intent was taken by the Rota as evidence that she had withdrawn it.[69] But the silence or contradiction of the other contractual is not a peremptory proof that the perverse intent was withdrawn. Thus in a recent case the Rota declared for nullity because of the perverse intent of the husband, in spite of the wife's having withdrawn *her* proposal to exclude progeny.[70]

[65] Versallien., Null., 2 aug. 1918 (Acta Ap. Sed., x, p. 389 fol.).

[66] R., Null. c. Grazioli, 18 mai. 1922 (rd., xiv, p. 161); Null. c. Amadori, 22 dec. 1923 (rd., xv, p. 322); Null. c. Massimi, 4 dec. 1926 (rd., xviii, p. 382); Null. c. Massimi, 9 aug. 1929 (rd., xxi, p. 423).

[67] R., Null., 12 aug. 1926 (rd., xviii, p. 337); 9 mai. 1928 (rd., xx, p. 177 fol.).

[68] R., Null. 16 jul. 1927 (rd., xix, p. 314); 30 dec. 1927 (rd., xix, p. 548 fol.).

[69] R., Null. c. Guglielmi, 27 aug. 1926 (rd., xvii, p. 357); Null. c. Parrillo, 7 jan. 1929 (rd., xxi, p. 22); Cfr. Gasp. (ed. 1904); ii, n. 1003; (ed. 1932), ii, n. 895; W-Vidal, v, p. 610 (36).

[70] R., Null. c. Massimi, 9 jul. 1927 (rd., xix, p. 303); cfr. also S.C.C., Parisien., 31 jan. 1891 (cicf., vi, n. 4282).

Proof of the withdrawal of a stipulation contrary to the benefit of perpetuity is not derived from the mere fact that a formula of marriage was used which declared for perpetuity of marriage. Thus in the well known Marconi-O'Brien case the Rota did not consider the Anglican formula, by which the parties promised to have one another until death, to be proof of a change of intention, when the previous perverse intent to divorce had once been proved.[71] For the principle had long since been established that the prevalent and valid intent of the contractuals could be at variance with the formula of ceremony with which they were married.[72]

FRANCIS WANENMACHER.

Buffalo, New York.

[71] R., Westmonasterien., Null. c. Grazioli, 11 apr. 1927 (rd., xix, p. 112).
[72] S.C.S.O., 22 jul. 1840 ad 2 (cicf., iv, n. 883).

Analecta

SACRA PAENITENTIARIA APOSTOLICA.

(Officium De Indulgentiis)

Decretum: De Portiunculae Indulgentia

Apostolica Sedes, nostris praesertim temporibus, cum in concedendis Indulgentiis, tum in earum acquisitione faciliore reddenda, maiore cotidie assolet largitate uti.

Quam ad rem Ssmus Dominus Noster Pius divina Providentia Pp. XII, id vehementer exoptans, ut christianus populus pretiosum eiusmodi Ecclesiae thesaurum uberiore usque modo participet, itemque ut animae piaculari igne expiandae hac ratione magis in dies magisque inventur, in audientia subscripto Cardinali Paenitentiario Maiori die XXII mensis Aprilis a. MDCCCCXXXIX impertita, ad plenariam quod attinet Portiunculae Indulgentiam lucrandam, pro impensissima pietate Sua, hoc decernere dignatus est, ut scilicet, abrogato n. V Decreti " Ut septimi pleni " ad hoc Sacro Tribunali die X mensis Iulii a. MDCCCCXXIV editi, omnes Ecclesiae Cathedrales ac Paroeciales, ac praeterea aliae Ecclesiae aliaque Oratoria—pro quibus, in amplioribus praesertim Paroeciis, ex prudenti locorum Ordinarii arbitrio, fidelium commodum id postulare videatur—a Sacra Paenitentiaria Apostolica, per supplicem libellum ab Ordinario commendatum, Portiunculae privilegium obtinere possint. Contrariis quibuslibet minime obstantibus.

Datum Romae, ex aedibus Sacrae Paenitentiariae, die 1 Maii 1939.

L. CARD. LAURI, *Paenit. Maior.*

L. * S.

S. LUZIO, *Regens.*

DIARIUM ROMANAE CURIAE.

Pontifical Appointments.

Assistants at the Pontifical Throne:

5 April 1939: His Excellency the Most Rev. Henry Althoff, Bishop of Belleville.

2 May: His Excellency the Most Rev. Edward D. Howard, Archbishop of Portland, Oregon.

Protonotary Apostolic ad instar participantium:

14 January, 1939: Monsignor John W. Wolfe, of the Archdiocese of Dubuque.

Domestic Prelates of His Holiness:

17 January: Monsignors George Telford and Henry O'Brien England, of the Archdiocese of Westminster, England.

18 January: Monsignors August Vojacek, John Q. Halpin, John C. Wieneke, James P. Taken, Michael J. Thiltgen, Patrick J. Coffrey, Peter D. O'Malley, Joseph P. Martin and Edward J. Dougherty, of the Archdiocese of Dubuque.

20 January: Monsignor William O'Grady, of the Diocese of Brentwood, England.

1 February: Monsignor Emile Chartier, of the Archdiocese of Montreal, Canada.

3 February: Monsignors Avila Majeau and Albéric Picotte, of the Diocese of Saint-Jean-de-Quebec, Canada.

14 March: Monsignors George J. Casey, Francis J. Magner and J. Ambrose Murray, of the Archdiocese of Chicago.

22 March: Monsignors John W. Houlihan, Thomas J. Nelligan, James A. Carey, Philip Desjardins, Joseph A. Laflamme and Arthur M. Decary, of the Diocese of Portland, Maine.

29 March: Monsignors William A. Gilfillan, John B. McCloskey, Linus A. Schwarze and Coloman Tomchany, of the Diocese of Trenton.

1 April: Monsignor James M. Ussher, of the Archdiocese of Buenos Aires, South America.

10 April: Monsignor Alphonsus R. Donahoe, of the Archdiocese of Halifax, N. S., Canada.

15 April: Monsignors Joseph M. Mueller, of the Diocese of Belleville.

18 April: Monsignors Joseph U. J. Papillon, John J. Ambot, Stanislaus F. Musiel, Joseph Valdambrini, John H. Fitzmaurice, John J. Fitzgerald, John C. Lynch and Matthew J. Traynor, of the Diocese of Hartford.

20 April: Monsignor Thomas Monaghan, of the Archdiocese of Hobart, Tasmania.

Monsignor Eugene Francis Vallely, of the Diocese of Leavenworth.

Monsignor Carl H. Meinberg, of the Diocese of Davenport.

Privy Chamberlains Supernumerary of His Holiness:

3 March: Monsignor Leo Binz, of the Diocese of Rockford. Monsignor Joseph M. McShea, of the Archdiocese of Philadelphia, Monsignors John A. Neumann, John F. Zelezinski, Victor Blahunka, Thomas J. Bobal, Joseph A. Casey, John J. Code, Daniel F. Cunningham, Malachy P. Foley, Reynold Hillenbrand, Frederick Hillenbrand, Innocent Kestl, William J. Kinsella, John J. Kozlowski, Francis M. O'Brien, Peter F. Shewbridge, James J. Strzycki and Patrick J. Hayes, of the Archdiocese of Chicago, Monsignor Paul Bernier, of the Archdiocese of Quebec, Canada, Monsignor Charles E. Fitzgerald, of the Archdiocese of New York, Monsignor Allen J. Babcock, of the Diocese of Detroit; Monsignor Patrick McGonagle, of the Archdiocese of Glasgow, Scotland, Monsignor David Paterson, of the Diocese of Aberdeen, Scotland.

Studies and Conferences

Questions, the discussion of which is for the information of the general reader of the Department of Studies and Conferences, are answered in the order in which they reach us. The Editor cannot engage to reply to inquiries by private letter.

NEED OF SOUND, TERSE, PRACTICAL PREACHING.

Day unto day uttereth speech, and night unto night showeth knowledge. There are no speeches or languages where their voices are not heard. Their sound hath gone forth unto all the earth, and their words unto the ends of the world.—Ps. 18:3, 4, 5.

It is hardly necessary to call attention to the miraculous works of grace that have been accomplished in the world by the preaching of the word of God and of the doctrines of faith. The point that we would call to mind is the fact that in spite of these miraculous works of grace, there has been at different times throughout all history an apparent or at least a localized failure in the work of Christianity. The effect upon the world of sound, terse, and practical instruction in the teachings of the Faith is already well known. The point that we would stress is the need of this sound, terse and practical instruction in the present day and the evil that results when it is neglected.

It is a well known fact that prior to the sixteenth century, nearly all of Western Europe was not only Christian, but also Catholic. Then, in the short space of fifty years in the middle of that century, half of that vast territory and millions of souls, were lost to the faith, becoming adherents of Lutheran, Calvinistic, or Anglican sects or their off-shoots. The explanation for this phenomenon has been many fold. But it seems safe to say that at least one prominent, if not dominant, reason for this catastrophic loss to the faith was the lack of practical and persistent instruction of the people. According to historians, before Luther's time, there was no lack of literature concerning the Faith, of sheets and pamphlets that were taken into the home, and that were to be found on the walls of both homes and schools as continual reminders of the fundamental teachings of religion. But it is a lamentable fact that during the period

preceding the Reformation, preaching and instruction of the people by the priests had fallen into serious neglect. Indeed, it is hard to understand how the Reformation could have happened, how the people could have accepted new and strange and antagonistic doctrines of faith from the Protestant reformers, if there had been proper instruction in the fundamental teachings of religion. This instruction, if it had been given and received, would of itself have automatically broken down the progress of the revolt from the Church. In a word, if there had been sound, practical, and terse instruction in the faith for the peoples of those countries that revolted from the Church, the Reformation as we know it would have been practically impossible. On the other hand, it can be pointed out that it was precisely by way of aggressive, persistent, and carefully prepared preaching to the people, that the Protestant reformation achieved much of its success and won over a majority of its adherents. The efficacy and the necessity, therefore, of well prepared, sound, practical, and terse preaching cannot be over-estimated.

The same holds true in respect of many locations and situations in the present day. If the philosophy of the satirical Rabelais is now in large part the philosophy of the people of the present day, it is due in great measure to the lack of proper instruction. "Fay ce que vouldras," said Rabelais in his day—"Do just as you please." And the people of our day are living according to the same norm, even though they may not be conscious of this formula. They must be taught the necessity of the restrictions imposed by the faith, and the reasons for these restrictions, before they can be either persuaded to give up their rationalistic philosophy of life, or be prevented from adopting such a philosophy. And if the people are taught, it must be by way of instruction received from the clergy. The populous nations of Russia and Mexico and Germany are now engaged as it were in a veritable conflict against God. It would seem as though there were a definite attempt in these lands to push God out of the very world that He has made. Irreligion is being propagated with every device known to modern ingenuity, and also with the cruder devices of physical constraint and even of torture and death—all so commonly employed in older ages. Even in Spain, which was a few centuries ago the most loyal

and aggressive champion of the Church, there has been increasing progress of antagonism against the Church. This is the nation that once launched the greatest armament the world had ever seen, partially in order to retrieve the honor of the Catholic Church when that honor had been besmirched by Henry VIII of England. Recently, the churches in Spain have been destroyed, priests insulted on the streets and ridiculed and lampooned in the press, martyred in public and private.

How can these complete revolutions in the attitude of people be explained? One part, at least, of the explanation lies in the lack of proper religious instruction. If the people really understood the fundamental teachings of their faith, whether in Russia or Mexico, or Spain, they would hardly have allowed these violations to have taken place. It may be contended that in Spain, even at the present time, the vast majority of the people are devout Catholics. We answer that a Catholic may be very devout, and at the same time very ill-instructed in the principles of his religion, and therefore easily led by specious arguments and by theories that would be mere fallacies for the well-instructed individual.

A striking example of the efficacy of sound instruction during the Sunday Mass has come to our attention in the following facts related by an American who has lately returned from South America. While sojourning in Buenos Ayres, this American made the acquaintance of an American priest who had been living for several months at one of the local rectories. It was the custom of this priest to say the two late Masses each Sunday. After many weeks, and much to the surprise of the other priests in the rectory, he began to give a short instruction at each of his Masses. It had been the custom previously never to have instructions at any of the Masses. The other priests in the rectory ridiculed the idea, claiming that no good would come of it. However, in a short time, the attendance at the earlier Masses decreased, while the attendance at the two late Masses increased until the Church was taxed to capacity every Sunday. Then the other priests took up the custom of preaching at all Sunday Masses. Confessions and Communions increased in the parish as a result, and the faith in general was greatly strengthened. The facts herein stated really took place, and can be verified upon inquiry.

On the other hand, it is possible to have regular preaching at every Sunday Mass and yet accomplish no results. This is due, however, not to the fact of the preaching, but to the nature of it. If another personal allusion may be permitted, I can think of a conversation with a gentleman who remarked that he always knew just what the sermon was going to be on Sunday morning as soon as the priest had read the Gospel. According to this gentleman, whose business takes him to many cities throughout the country, the situation is the same practically everywhere. Every Gospel narrative for the Sundays suggests to the preachers the same commonplace and much-worked thoughts. This, he maintained, was not the fault of the Gospel narrative, but was due to the failure of the preacher to prepare anything that was either fresh or stimulating in connexion with his commentary. It would seem that there is almost no enlightenment for the people in this process, and only the barest fulfilment of the duty of the shepherd to feed his flock. It has been said that if the priest is careless, the people also will be careless. After carelessness comes indifference; and after indifference weakening of faith, which is the worst evil of the day so far as the progress of the Catholic religion is concerned.

From one viewpoint, the need of sound, terse, and practical preaching in the present day is even greater than it was in the past. For the task of the preacher to-day is in a sense more difficult than the task of the preacher in days gone by. To-day we have arrayed against us, not merely word-of-mouth theories and virulent controversial religious tracts and pamphlets, but a widespread psychology and a vast paraphernalia of opposition, supported and maintained by millions of dollars in capital, and by the still more appalling strength that lies in the inherent weakness of human nature. I refer to the moving pictures, the theatres, the literature and the radio. All of these can be and at times are a most powerful weapon of offence in the breakdown of the principles and practices of Christianity. One bad moving picture, skilfully and artistically presented, can be more harmful than the ranting speeches of a hundred people who may hate the Church and talk against its dogma. And millions of Catholics, many of them of tender and therefore impressionable years, attend such pictures. They see sin cloaked over with false beauty and false sentimentality. The languishing wife,

who is conducting an illicit affair with another man, is so pictured that the audience first feels sorry for her because she is denied the man she really loves, and (sic) should have. Then it begins to imagine that she is wronged because she may not have her desire gratified. Thus, sin is lionized, divorce is popularized, and there is developed a false philosophy of morality, a perverted system of ethical procedure. Surely, in order to offset this and kindred evils, the people are now more than ever before in need of sound, practical and terse instruction in their faith.

It is interesting to note that conditions to-day as to the faith are very similar to what they were in Europe prior to the Reformation. Then could be noted a very definite lessening of respect for the Church and for its teachings, and an increasingly indifferent attitude toward the obligations imposed by Faith. God and the next life were then more and more forgotten, while man and the pursuits of the present life were more and more emphasized. Coincidentally, a similar condition exists in our own day. Then the Church employed as one of the means to remedy the situation the preaching of the word of God and careful instruction in the teachings of the Catholic faith. What the Catechism of the Council of Trent then prescribed is applicable also at the present time. According to the Catechism, " as the preaching of the divine word should never be interrupted in the Church of God, so in these our days it becomes necessary to labor with more than ordinary zeal and piety to nurture and strengthen the faithful with sound and wholesome doctrine, as with the food of life: for false prophets have gone forth into the world (I *John* 4:1) with various and strange doctrines (Heb. 13:9) to corrupt the minds of the faithful; of whom the Lord hath said: " I sent them not, and they ran; I spoke not to them, yet they prophesied " (*Jerem.* 13:21). In this unholy work, to such extremes has their impiety, practised in all the arts of Satan, been carried, that it would seem almost impossible to confine it within bounds; and did we not reply on the splendid promises of our Saviour, who declared that He had " built His church on so solid a foundation that the gates of hell should never prevail against it," (Matt. 16:18), we should be filled with most alarming apprehension lest, beset on every side by such a host of enemies, assailed by so many and such formidable engines, the Church of God should, in these days,

fall beneath their combined efforts. . . . The Fathers, therefore, of the general Council of Trent, anxious to apply some healing remedy to an evil of such magnitude . . . deemed it necessary to deliver some fixed form of instructing the faithful in the truths of religion from the very rudiments of Christian knowledge." [1] Pastors are then exhorted by the Fathers of the Council to instruct the faithful in the fundamentals of the Christian religion, with special emphasis on the knowledge of " Jesus and Him Crucified," of the Commandments, of the virtues, especially of charity, and of the necessity of performing good works.

The manner of instruction is also considered as being " of considerable importance . . . and of the greatest moment. Age, capacity, manners and condition (of the people) demand attention, that he who instructs may become all things to all men and be able to gain all to Christ, and prove himself a faithful minister and steward." Nor should our zeal in communicating Christian knowledge be relaxed because it is sometimes to be exercised in expounding matters apparently humble and unimportant. And for this work careful preparation and study are recommended. As the Gospel says, " the harvest is ready ". Sunday after Sunday the people come to hear the word of God. If the preacher sows, the fruits will be abundant. But in order to sow, he must be prepared. Natural eloquence will follow upon careful preparation. Socrates has said: " What I know, that I can express." What the preacher really knows, he will have no difficulty in imparting. Statesmen, lawyers, men of science, poets, soldiers, traders, each in his own craft, are ready and fluent at any time, however sudden. They speak with facility and fulness. The habitual thoughts of each are upon his calling, work, or craft, and without preparation he is ready at any moment to speak correctly and promptly. " Why is it, then," asks Cardinal Manning, " that a priest cannot without preparation speak for God and for His Kingdom, for His truth and for His law? If we were full of these things, if we realized them and lived in them as the convictions of our reason and the affections of our heart, to speak of them would be even a relief. We are never weary or embarrassed of speaking of those we love,

[1] Catechism of the Council of Trent, Preface.

and of the things that are dear to us. In the measure in which we realize the world of faith, the eternal truths, the nature of sin, the love of souls, their danger of perishing, we shall find no difficulty in speaking on them with sincerity and simplicity. It is the desire to be eloquent and to shine as orators that causes unreality, vain-glory and emptiness. If we could only forget ourselves and speak seriously for God, we should find less difficulty in preaching, and the people would hear us gladly, because they would believe we mean what we say. . . . Therefore, 'cast thy bread upon the running waters, for after a long time thou shalt find it again.'" [2]

If the bread, the word of God, and instruction in the fundamentals of religion, are not cast upon the waters, not given to and impressed upon the people, it is greatly to be feared that eventually in this country the militant paganism that now threatens the faith will precipitate another revolt similar to the appalling revolt of the sixteenth century in Western Europe.

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FORGOTTEN CATHOLICS IN PUBLIC SCHOOLS.

To the Editor, THE ECCLESIASTICAL REVIEW.

Our parish has a high school, but through limited resources and, therefore, limited accommodations, through the necessity of insisting upon monthly fees and, perhaps, through lack of sufficient zeal on our part, at least three-fourths of our boys and girls attend public high schools. As in high schools everywhere, students are recommended to patronize the public libraries, with the result that now and then a student will tell us of being delighted with certain books which we happen to know are prohibited by the Index Expurgatorius. Recently an incident of this kind suggested an examination of the library catalogue, the examination revealing that in a list of nearly eighteen thousand volumes about thirty were from Catholic authors. This in a city whose population is nearly one-third Catholic, all doing their share through the payment of taxes to support the public library.

[2] *The Eternal Priesthood*, pp. 185ff.

Now where is the blame to be placed? Certainly, on no one but ourselves. Among those controlling the situation there is no disposition whatever to exclude so completely books of Catholic authorship. There is an ignorance, a lack of interest and, therefore, a complete ignoring or forgetfulness of such works. Representative Catholics would certainly get a favorable hearing. But apparently we are not bothering about it.

I am dwelling on this particular circumstance because it seems to exemplify our attitude toward several important interests. For instance, all over the country we throw unbounded energy into the maintenance of a parish school and unbounded interest in its success, and we evince a corresponding lack of interest in the children unfortunate enough not to be attending a Catholic school. I am told on the highest authority that in the cities of the United States not more than one-half of the Catholic children are attending Catholic schools. What may be a surprise to many, there is only one reason for this—we have no room for them. Our schools are filled beyond capacity. Had we the means to double that capacity and maintain staffs in accordance, not one seat would be vacant.

But what about the religious instruction of our Catholic children? Zealously every week pastors' assistants everywhere are appearing in parish school classrooms for at least a half-hour of religious instruction. It is safe to add that among that vaster number of children attending public schools not one priest in twenty gives any time to their religious instruction. Generally, we seem to have no time or thought for them.

Much the same obtains in practically every parish activity. In most cities members of the C. Y. O. are parish school boys; young ladies' sodalities rarely bother going after girls of public school rearing. In recent years there has been a widespread endeavor to improve text books on religion; the results on the whole have been very valuable; but practically every author contemplates the child in the parish school with trained teachers developing the work; rarely has there been a thought of the Catholic child not so favored, whose chances for learning his or her religion are through the assistance of voluntary Sunday school teachers, or unskilled teachers in general.

For forty years I have occasionally attended sessions of the annual convention for the Catholic Educational Association.

The same attitude prevails there; everything is for the child attending parish school; nothing for the three million children condemned to attend public schools.

Our entire Catholic organization, including clergy, religious, and laity, seems to be absorbed in the prosperity and records of our parish grade and high schools. We are justly proud of their number, of the imposing buildings we have succeeded in erecting, of their equipment and their prestige. Nowhere do we spare ourselves or our resources in improving, enlarging and embellishing them. Outside of all that our enthusiasm dampens; for that excluded population, which is still more than half, our interests are not aroused, unless here and there in an exceptional case. And yet everyone of these has an immortal soul.

CLERICUS.

FIRST RETREAT HOUSE FOR PUBLIC SCHOOL BOYS.

One hundred and thirty miles northwest of New Orleans, amid the rice fields of Louisiana, where the Acadian refugees settled, not far from the setting depicted in the opening lines of Longfellow's immortal *Evangeline*, in a beautiful sequestered spot stands the recently erected retreat house of Our Lady of the Oaks, at Grand Coteau, Louisiana. It is the realization of the Bishop of Lafayette's dream—a dream that did not confine itself to the realms of wonderland, but has become a reality.

A year ago, at the Centennial Celebration of St. Charles College, now a Jesuit Novitiate and Juniorate at Grand Coteau, the Right Reverend Jules B. Jeanmard, Bishop of Lafayette, Louisiana, remarked: "Something I have long been dreaming of, I now find my way to accomplish. I am going to give to the Jesuit Fathers a house of retreats. It will be erected right here on the Novitiate grounds."

To-day, one year later, the house built in old Spanish mission style is complete in every detail of building and furnishing. An artistic chapel, a large reading-room, a dining-room, twenty-seven private rooms for retreatants, quarters for the retreat master and his assistants—all comprise this house of God ensconced at the end of an avenue of age-old evergreen oaks. Apt in its surroundings for converse with God, it is rich, indeed, in its attractive beauty.

On 2 October, 1938, Bishop Jeanmard dedicated the new retreat house. In his address for the occasion the Bishop formally presented it to the Provincial of the Southern Jesuits. He considered it, he said, the best investment he has ever made in his diocese, and stated that the most consoling event of his twenty years in the episcopate was the enthusiastic coöperation of all his priests in making this gift to the Society of Jesus possible.

But the Bishop did not simply dream of a retreat house, build it and turn it over to the Jesuits. The source of such a fond hope had to arise somewhere. Whence the origin of this hope? Who made it possible?

First and foremost, no doubt, was a mandate of His Holiness Pius XI. In no uncertain terms does the Holy Father express his mind in his Encyclical letter, *Mens Nostra,* concerning lay retreats:

> Now if we would cure this sickness from which human society suffers so sorely, what healing remedy could we devise more appropriate for our purpose than that of calling these enervated souls, so neglected of eternal things, to recollection of spiritual exercises. And, indeed, if spiritual exercises were nothing more than a brief retirement for a few days, wherein a man removed from the common society of mortals and from the crowd of cares, was given, not empty silence, but the opportunity of examining those most grave and penetrating questions concerning the origin and destiny of man: 'Whence he comes; and whither he is going'; surely, no one can deny that great benefits may be derived from these sacred exercises.

No small part, it would seem, did these words of Christ's Vicar play in the erection of the new retreat house.

The feasibility of a permanent laymen's retreat house in the Lafayette diocese was known from another source. Already in January 1929, the pioneer in this work was busy clearing the way to this untouched field of Catholic Action.

Realizing the sad neglect of our Catholic boys in Public High Schools, Father Samuel H. Ray, S.J., interviewed the pastors in the nearby towns and with their approval he submitted plans to the principals and pupils in the various schools relative to the establishment of closed retreats. His efforts were rewarded with a wholehearted welcome from pastors, principals and students. The boys, especially, received him with open arms as if to indi-

cate that their young hearts had been yearning for just such an apostle to come into their midst—to show some interest in them and their problems. Our Catholic boys in public schools face a big problem, one might almost say, a gigantic problem, to them an unanswerable riddle. They simply cannot understand a godless world. To them the questions, Whence am I? Whither am I going? must ever remain unanswered in the system of education in which they find themselves. How can a Catholic boy keep his faith under the obstacle which to him at least, appears insurmountable?

Closed Retreats may prove to be the answer. It is, at least, a salutary remedy offered by Divine Providence in a moment of need. Indeed, it seems providential that in the very same hour that the Holy Father from his watch-tower in the Vatican City urged a wider use of spiritual exercises, young recruits were arriving at the Jesuit Novitiate at Grand Coteau to spend the week-ends engaged in closed retreats.

On a Friday afternoon in late January, 1929, twenty boys from a nearby Public High School reported at the Novitiate grounds to begin a closed retreat—a noble experiment by Father Ray. It was the inauguration of a particular type of retreat movement in favor of the 250,000 Catholic boys being educated in the Public High School system.

Several repetitions of the experiment were made; each produced the same fruitful results, a healing of the wounds of Catholic youth. It was like the vaccination given for the first time as a preventative against a deadly disease, but here the experiment "took" in every case. As time went on, the number of retreatants increased, as the following figures testify. From 25 January, 1929, to June of the same year, 263 boys came from twenty-nine towns to attend fourteen retreats. During the school year 1929-30, 275 boys came from forty-one towns to attend fifteen retreats; in 1930-31, 337 boys came from forty-two towns to make nineteen retreats. Figures manifest only increasing numbers; God alone knows the quality of the change wrought in these young hearts that came miles to spend a few days apart with the Master of their souls. The miraculous was taking place before the eyes of all who witnessed the work. Young Catholics in Public High Schools began to speak of their annual retreat at Grand Coteau as something to look

forward to; it meant something to them personally; they saw and recognized in their own limited way its spiritual value. These young Americans welcomed the opportunity to go and strengthen their souls against the spirit of godlessness and immorality that surrounded them on all sides. Many a Catholic boy of Southwest Louisiana waited eagerly for the annual invitation to go and rearrange his life according to the standards of Christ. Some even heard the call of Christ, " If thou wilt be perfect . . . come follow me."

The work went on. Fruits of it were already seen on all sides. The results were so satisfying that the Bishop saw in it the solution of one of the big problems of his diocese. " The finger of God is here," he said.

But sad news awaited those who had inaugurated this unprecedented movement, in the autumn of 1931. The single large building at Grand Coteau was not of such capacity as to accommodate the increasing number of novices and the boys in retreat; and the work had to be temporarily discontinued. The year ended leaving both Bishop Jeanmard and Father Ray to dream about what might be done in the future when God should provide the means.

The results of this dream have already been related. The retreat house for boys is now a reality. It is a concrete example of what the Holy Father wants carried out. In his Encyclical *Mens Nostra,* strongly urging a wider use of Spiritual Exercises among the laity, Pius XI says:

> With no less care, venerable brethren, would we have manifold cohorts of Catholic Action polished or cultivated fitly by spiritual exercises. With all our power, we desire to promote this Action; and we cease not, and will never cease, to commend it; because the cooperation of the laity with the Apostolic Hierarchy is exceedingly useful, not to say necessary.

Elsewhere in the same letter the Vicar of Christ alludes to retreats " in particular for *Bands of Young Recruits.*" And he would have " the practice of spiritual exercises extended more widely among the various associations of Catholics and *chiefly those of younger members.*" From this it would seem that the Holy Father possesses an intimate knowledge of the difficulties that confront our own American youth.

IGNATIUS FABACHER, S.J.

St. Marys, Kansas.

A RETREAT FOR PRIESTS ACCORDING TO ST. PAUL.

4-13 September, 1939.

Perhaps the most discouraging element in the life of a zealous priest is the apparent sterility of his efforts at winning souls for Christ. He is convinced of the importance of the message he bears, he knows the power of the sacraments, and yet he does not seem to be able to get men interested. The priest realizes that his zeal would be rewarded by God in the next life even though results are scant; but here and now souls are not gained to the cause of Christ and he cannot help ponder the reason. Nineteen centuries of Christianity and so few Christians—why? Among those who are Christians so few with the spirit of Christ —why? Men all around us are intensely interested in everything but the salvation of their soul. The Church of Christ established for the purpose of focussing the attention of men on the one thing necessary barely succeeds in getting a passing glance.

Why do we priests not imitate St. Paul? The great apostle of the Gentiles made converts wherever he went. He was a fearless preacher of the Gospel and at times his statements were bold and arrogant. After Christ he claimed for himself more than any other man had dared. In his epistles he boasted openly of his calling, listed his achievements, described his struggles and gloried in his victories for Christ. He spoke with such conviction of his future reward and happiness that men were forced to follow him. They recognized in him what men had previously acknowledged in Christ: " This man speaketh with authority." St. Paul's preaching made converts because it was clear and simple and was presented to his hearers without apology or adulteration, just as he had received it from the Apostles. " For I judged not myself to know anything among you, but Jesus Christ and Him crucified " (I Cor. 2:2). " For we are not as many, adulterating the word of God; but with sincerity, but as from God, before God, in Christ we speak " (II Cor. 2:17).

St. Paul always impressed upon his hearers the dignity of their vocations as Christians.—" Know you not that you are the temple of God, and that the Spirit of God dwelleth in you? But if any man violate the temple of God, him shall God

destroy. For the temple of God is holy, which you are. Let no man deceive himself; if any man seem to be wise in this world, let him become a fool, that he may be wise. For the wisdom of this world is foolishness with God. For it is written: I will catch the wise in their craftiness. And again: The Lord knoweth the thoughts of the wise, that they are vain" (I Cor. 3:16-20).

Then he taught them how to preserve their dignity by acquiring the Spirit of Christ. "Now we have received not the spirit of this world, but the Spirit that is of God: that we may know the things that are given us from God. Which things also we speak, not in the learned words of human wisdom: but in the doctrine of the Spirit comparing spiritual things with spiritual" (I Cor. 2:12-13).

Priests especially are warned of the struggle and are given instruction as to the work of their calling. "I charge thee before God and Jesus Christ, who shall judge the living and the dead, by his coming, and his kingdom: Preach the word: be instant in season and out of season: reprove, entreat, rebuke in all patience and doctrine. For there shall be a time, when they will not endure sound doctrine: but, according to their own desires, they will heap to themselves teachers having itching ears: and will indeed turn away their hearing from the truth, but will be turned to fables. But be thou vigilant, labor in all things, do the work of an evangelist, fulfil thy ministry" (II Tim. 4:1-5).

During the past ten years a disciple of St. Paul has arisen in the ranks of the clergy. A Jesuit missionary of the Canadian Province has been giving retreats to priests in which he reviews with them the writings of St. Paul, creates in them the mentality of this great apostle and equips them so that they may produce the same results. The retreat conferences are replete with sound theology given under the ideal conditions of silence and recollection. Eight days with four conferences a day during which time no one speaks but God and the retreat master. Mass is said daily by the priests on retreat. Father Lacouture, S.J., is occupied throughout the year preaching closed retreats. Twenty-two in all will be conducted this year—four in the United States and the others in Canada. Thousands of priests

during the past ten years have followed the exercises and they earnestly hope that other thousands will follow their example.

Last year thirty priests gathered at St. Mary's Seminary, in Baltimore, Maryland, from 5-14 September. They were so enthusiastic at the close of their retreat that they laid plans immediately for this year. The retreat is to be held in September at St. Mary's Seminary, Roland Park, Baltimore, from Monday evening 4 September, until Wednesday morning, 13 September. All priests, diocesan and regular, are invited. Reservations can be made at any time preceding the opening of the retreat. The work of preparation will be lessened greatly if most of the reservations are made one week in advance. For further information and reservations address the Reverend J. Joseph Egan, 4414 Frankford Avenue, Baltimore, Maryland.

THE APPOINTMENT AND THE PRIVILEGES OF SACRISTANS.

Qu. 1. May a sacristan dispose of the cotton wool, oil, baptismal water used in the administration of the sacraments, or must the priest personally destroy and put them in the sacrarium?

2. May one who is not a sacristan and not in sacred orders dispose of them?

3. Who can delegate one a sacristan? Can a sacristan subdelegate another to take his or her place, and if so, is there any restriction on the latter's privileges?

Resp. 1-2. "The priest should take the piece of cotton, or other material used in wiping the parts anointed, and have it burned on a metal dish, or in some other way, so that the ashes may be thrown into the sacrarium; he should do this himself, unless there be some other in holy orders to do it for him." (O'Kane, *Rubrics of the Roman Ritual;* No. 357.) What is said by Father O'Kane about the cotton used in Baptism, can be applied with equal force to the cotton used in Extreme Unction, as he infers in his treatment of that sacrament. (No. 928.) The priest should likewise dispose of the oils used in the administration of the sacraments and the baptismal water at those times in the year when new oil and water are substituted. Historically, the office of sacristan was an important one in the eyes of the Church. One of the minor orders, which every priest receives, is connected with this particular work. On the

Continent, a priest is usually appointed sacristan in the cathedrals and large churches. In this country, due to local conditions, a lay person almost invariably acts as sacristan. It is often convenient to have a woman, who is able to mend the vestments and keep the church clean, and is more fitted for this type of work than men. Prudence will of course lead one to select women of mature age. (*Caeremoniale Parochorum*, Petrus de Amicis, vol. 1, p. 159.) Consequently, except in those churches, as in the chapels of seminaries, where one finds a sacristan in Holy Orders, the duties mentioned in the question must be performed by the pastor or another priest. This rule will likewise apply to the second question.

3. The pastor of the church will naturally choose the sacristan, since he is the one responsible for the care and custody of the Church and all things in it. A sacristan chosen by him has the right to touch the sacred vessels, provided they do not contain the Holy Eucharist and have been purified; and the altar linens, even though they are not purified. (*The Eucharist, Law and Practice*, p. 114; Durieux-Dolphin.) The same volume contains the following note: "Lay sacristans, ordinarily, in the smaller churches have not, properly speaking, charge of the sacred vessels and therefore they may not make use of the privilege referred to above. In any case they should refrain from *publicly* touching the sacred vessels and linens, and if they are bidden to do so, they should first put on cassock and surplice." Father Durieux has in mind male sacristans. He certainly would not ask a woman to don cassock and surplice. In the larger churches, where visiting priests are accustomed to say Mass, it is necessary to have a male sacristan on hand to arrange the chalices and linens. In the average church in this country, especially when a male sacristan is not available, a priest must perform these duties. Hence, in appointing a sacristan, the pastor should mention specifically the various duties of the sacristan and the limitations he wishes to make. Occasional helpers in and about the church and sacristy have no right to touch the sacred vessels and linens, unless authorized by the pastor to do so.

CHANGE OF COLOR OF TABERNACLE VEIL.

Qu. Is it permissible to have a cloth of gold veil on the tabernacle during " purple " and " black " Masses?

Resp. Concerning the color of the tabernacle veil, Augustine says (*Liturgical Law*, p. 41): " The Sacred Congregation of Rites has admitted two opinions: the one that holds the color must always be white, the other that it must change according to the office. This latter opinion was favored by the Sacred Congregation (21 July, 1855), but no strict rule can be deduced from its answer. Hence a white veil is certainly admissible. However, since at funeral Masses and exequies and on All Souls' Day, the antipendium is black (violet, if the Blessed Sacrament is reserved in the tabernacle), the veil of the tabernacle should be purple (violet). (S.R.C., 1 Dec. 1882)."

Hence, it is permissible to have a cloth of gold veil (not a yellow material, which is forbidden) if it is to act as a substitute for white, red or green. Since white is permitted on days when violet is the color of the office and Mass, the cloth of gold may be left on the tabernacle, although it is more proper to have a violet veil. The same is to be said at ordinary Masses for the Dead. At funerals, All Souls' and kindred solemn functions when black is prescribed, the tabernacle should be vested in violet. By the term " violet " is meant that peculiar ecclesiastical shade which is neither purple nor violet, but a rich red-purple.

LAPSE OF MEMBERSHIP IN PIOUS SOCIETIES.

Qu. In 1930 I joined a pious organization to which were attached certain privileges to be gained by a priest member who said one Mass a year on a specified day for the dying. I failed to say the Masses on two successive years, due to sickness, but revived the practice again when I got well. Do I still retain these faculties and privileges?

Resp. Since there was no intention to withdraw from the society in question and the prescribed conditions could not be fulfilled because of illness, it seems logical to hold that membership is still retained and that all faculties are still in force. One could be certain of his status by writing directly to the headquarters of the society.

Ecclesiastical Library Table

RECENT THEOLOGY.

The present year has witnessed the publication of another volume of the monumental *Dictionnaire de Théologie Catholique* [1] begun almost forty years ago. This latest volume forms the first half of Tome XIV and comprises the last portion of the subjects under R and the first portion of those under S. From the dogmatic standpoint the most important article is that which deals with the Sacraments, contributed by the Rev. A. Michel. He confines his discussion to the sacraments of the New Law in general—since each sacrament is considered individually under its own title—and to the sacraments of the Old Law. Father Michel gives Peter Lombard the credit of first using the word " sacrament " in its present theological sense and of first explicitly enumerating the seven sacraments. Discussing the manner in which the essential elements of the sacraments have been determined, Father Michel favors the view that the matter and form of certain sacraments—particularly Confirmation and Holy Orders—were designated by our Saviour only generically, the specific determination being left to the Church. Among the various theories as to the particular type of causality exercised by the sacraments in the production of grace he prefers the Thomistic notion of physical causality. Treating of the pre-Christian sacrament of justification—circumcision or the *remedium naturae*—Father Michel regards it as probable that this means still suffices to confer grace among those people to whom the Gospel has not yet been announced. However, he admits that the opposite view is more common.

The article on Satisfaction, by the Rev. P. Galtier, S.J., is chiefly historical, describing the penitential discipline of the early Church, penitential tariffs, and the growth of the practice of indulgences. In the article on Sanctity Father Michel contends that we should emphasize as a note of the true Church *dynamic* rather than *actual* holiness. That is, we should first prove that the Catholic Church is superior to all other denominations in possessing an inherent power to draw souls to perfection and in providing its members with the means of attain-

[1] Paris, Letouzey et Ané.

ing to extraordinary holiness, and only then point out as a consequence the presence of exalted sanctity in many members of the Church. For, he says, to begin by striving to prove the actual superiority of Catholics in holiness over other Christians is a process that involves difficulties, especially if limited to some particular epoch or place. The article on Russia by the Rev. J. Ledit and the Rev. M. Gordillo also contains some interesting points of a theological nature, such as the story of the controversy over the eucharistic epiclesis and the account of the teachings of modern Russian Orthodox theologians, especially the " sophiology " of Bulgakow.

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A recent example of the " Catholic " tendency that is becoming quite active in the Church of England is a book by the Anglican Canon H. Maynard Smith, entitled *Pre-Reformation England*.[2] From the historical standpoint the work is scholarly and reliable; but theologically it is objectionable because of the unwarranted conclusions the author draws in his attempt to prove the continuity of the Anglican Church with the pre-Reformation Church of England. In pursuance of this theme he minimizes the belief in the primacy of the Pope prevailing among Catholics at the beginning of the sixteenth century, and fails to appeal to such valuable sources as St. John Fisher's Latin treatises to discover the religious ideas held by the people of England before the Reformation.

A somewhat similar attitude shows itself in an article on " Catholic Œcumenism " appearing in the Anglican periodical *Reunion* for March. The writer, the Rev. A. Herbert Rees, commenting on the recent work *Chrétiens Désunis*[3] by Father Congar, O.P., says: " Father Congar shows no knowledge of the unbroken pre-Roman tradition in the Church of England. This is indeed no matter for surprise or reproach, for it is a tradition of which few of his English brethren, and not many Anglicans, have any extensive knowledge. But it is on the adherents of this tradition (which, though at times admittedly slender, is the only true uninterrupted Anglican tradition) that the task has fallen of commending to Anglicans the doctrine

[2] Macmillan, 1938.

[3] Cf. Library Table, ECCLESIASTICAL REVIEW, August, 1938, p. 182.

of the Council of Trent, and they are now shouldering the no less invidious task of interpreting the Vatican Council to them. There is nothing like this continuity in any of the Reformed bodies."

The Catholic answer to this claim of identity between the present-day Anglican Church and the pre-Reformation Catholic Church is briefly but convincingly presented by the Rev. C. Hoare in his book *Continuity*.[4] Father Hoare views the subject of continuity from three aspects—tenure, doctrine and succession. In confirmation of his contention that Anglican continuity must be ruled out he quotes recognized Anglican scholars who acknowledge the definite break with the Catholic Church that occurred in England at the time of the Reformation.

The attitude of Catholic scholars toward the situation in the Anglican Church is divergent, depending on which of the variety of Anglican tendencies is regarded as predominant. A hopeful view is taken by those who centre their attention on the yearning for reunion and the truly Catholic sentiments prevailing among a considerable number of Anglicans, both clergy and laity. This note is struck by Father Vincent McNabb, O.P., in a paper entitled " Wiseman and Mercier on Reunion," written about fifteen years ago at the time of the Malines Conversations, but now published for the first time in the *Dublin Review* for January. Father McNabb praises the efforts of the two Cardinals to provide Anglicans with a better understanding of the position of the Catholic Church and eventually to lead them back to the fold. Unlike the majority of Catholic scholars, Father McNabb seems to visualize corporate reunion as a possibility and concludes his article with the hope that " the peace efforts of Mercier and Wiseman may one day make the bells of England to ring out with joy at an armistice which stills the religious war of three hundred years ".

A similar optimistic view is taken by the Rev. Henry St. John, O.P., writing in *Blackfriars* for March on " Movement in the Church of England ". He points out as the basic flaw of the Anglican Church the lack of an active teaching authority. The need of some such authoritative factor in their religion is keenly

[4] Athenaeum Road, Whetstone, London.

felt by Anglicans themselves, especially in view of the wide diversity of teaching prevailing in their ranks, and also because they are now being called upon to give a definite statement as to where they stand among Christian denominations. At the same time, Father St. John believes that the Church of England possesses a " distinctive tradition and ethos containing many elements that are Catholic ". He takes an encouraging attitude toward the recent Report of the Commission on Doctrine [5] and says: " For the first time in its history it can be said that the Church of England as a whole, in so far as the Commission is representative of it, has put forth a doctrine on the Church, the ministry and the sacraments which is fundamentally Catholic in type." However he adds: " It is true that much particular doctrine based on these foundation principles is not in accordance with Catholic standards."

Other Catholics are less optimistic about the possibility of large groups of Anglicans returning to Catholic unity, especially in view of the pronounced Modernistic trend among many of the intellectual leaders of the Anglican Church. Thus, an Anglican clergymen, the Rev. Wilfred Knox in *St. Paul and the Church of the Gentiles* [6] does not hesitate to propound the view that Christ was not regarded as God by His immediate disciples, but that the doctrine of His divinity—or quasi-divinity—was introduced by St. Paul. *The Union of Christendom*,[7] a symposium from the pens of thirty writers—mostly Anglican—is illustrative of the confusion of thought prevailing to-day in the Church of England. To quote Father M. Bévenot, S.J., writing in the *Tablet*, 28 January: " History is read in quite different ways by the various contributors; the attitude taken up toward the Papacy and its ' excesses ' varies from a sort of longing respect to an impatient repudiation. The importance attached to the episcopate differs from writer to writer, though all agree that it should be preserved, whatever may be involved in reunion."

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The *Civiltà Cattolica* for 1 April contains an interesting article by the Rev. A. M. Lanz, S.J., on the opinions of the

[5] Library Table, ECCLESIASTICAL REVIEW, August, 1938, p. 179.

[6] Cambridge University Press, 1939.

[7] London, Church Union, 1939.

sixteenth-century Bajus relative to the primacy of the Roman Pontiff. Bajus, who was quite devout in his personal life, exhibited an attitude of apparent disrespect and disobedience toward the Pope, especially in connexion with the condemnation of his teachings. Father Lanz believes that the explanation of this inconsistency lies in the fact that Bajus, while conceding a certain measure of supremacy to the Pope, did not attribute to him a direct jurisdiction over all the faithful. He believed that the Pope has the right to intervene in ecclesiastical matters outside of Rome only when the particular bishop of a diocese does not properly discharge his duties. It is easy to see how, with such convictions, Bajus had little regard for papal condemnations of his doctrines.

An article on the teachings of St. Cyril of Alexandria concerning the Mystical Body is contributed by the Rev. H. du Manoir to *Gregorianum,* 1939 I. The writer asserts that St. Cyril had the clearest idea of any of the Eastern Fathers of the significance of the doctrine of the Mystical Body. The Saint regarded as the basis of our incorporation in Christ the Incarnation itself, inasmuch as by taking to Himself an individual human nature the Word made human nature in its entirety consubstantial, so to say, with Himself. Indeed, so emphatically did the Saint insist on the intimate union of all mankind with the Word Incarnate, that some non-Catholic writers, such as Loofs and Harnack, have ascribed to him the opinion that the Son of God actually assumed *all* humanity as well as an *individual* humanity. Father du Manoir shows, however, that this idea cannot justly be deduced from the writings of the Saint, although it is true that he often used physical similitudes to describe our union with the Word Incarnate, such as iron plunged into fire or wax impressed with a seal.

Another work on the sublime doctrine of the Mystical Body is *Die Kirche als der Mystische Leib Christi nach dem Apostel Paulus* [8] by the Rev. A. Wikenhauser. The writer analyzes and coördinates the various statements of St. Paul concerning the Church, and shows how they all center on the doctrine of the Mystical Body. Dr. Wikenhauser is willing to admit that St. Paul may have found some of the terminology he uses in Gnostic sources.

[8] Münster, Aschendorff, 1938.

It is often asserted that one who admits a moral law must logically admit the existence of God. For example, Cardinal Newman in his *Grammar of Assent* defended this mode of argumentation. Writing on "The Moral Fact and the Existence of God" in the *Irish Ecclesiastical Record* for February, the Rev. William Barden, O.P., discusses the validity of this method of ratiocination and finds it inconclusive. It is only by a metaphysical argument, he contends, that one can adequately prove the existence of a supreme Being, since only metaphysics embraces transcendental *being* in the scope of its object. The acknowledgment of the obligation to be moral, the realization that one is bound to do good and to avoid evil, can be present, he asserts, without the acknowledgment of God, since morality is based on the instinctive turning of the will to *bonum et finis in communi,* not to any particular *bonum et finis in concreto.* In other words, morality can exist without religion, although it is defective morality, since it culpably neglects the first concrete imperative of the moral law, which is to discover the purpose of life, so that life may be ordered thereby. However, one can employ the acknowledgment of the moral law as a proof of God's existence inasmuch as it is a *contingent* fact, and as such can be the basis of an argument for the existence of an *esse subsistens.* But this is in reality only a form of the third argument of the five given by St. Thomas for the existence of God, not a distinct argument.

Immanence et Transcendence [9] by the Rev. A. Gregoire, S.J., contains an extensive discussion of the five proofs given by St. Thomas for the existence of God, all of which the author believes are ultimately reduced to the principle of causality. Father Gregoire also treats of the chief attributes of God, of creation, pantheism and the problem of evil.

Two outstanding representatives of the Thomistic school—Father Garrigou-Lagrange, O.P., and Father Ceuppens, O.P.—have rendered excellent service to speculative theology by their recent treatises on God. The work of the former, *De Deo Uno,*[10] is a commentary on the first twenty-six questions of the first part of the *Summa.* While staunchly loyal to the Angelic Doctor, both in matter and in method, the author does not

[9] Edition Universelle, Brussels.

[10] Paris, Desclée De Brouwer, 1938.

neglect to provide solid refutations of modern errors. As in his previous writings, Father Garrigou-Lagrange vigorously upholds the Thomistic doctrine of *praemotio physica* against the Molinistic *scientia media.* The work of Father Ceuppens, *Theologia Biblica: De SS. Trinitate,*[11] is a thorough study of the scriptural texts in both the Old and the New Testament in which there is reference to the Holy Trinity. Father Ceuppens is very moderate in his use of Old Testament texts, admitting that none of them presents clearly the doctrine of the Holy Trinity, although there are numerous allusions and implications pointing to some manner of plurality in God. He gives an excellent exposition of the doctrine of Christ's divinity in the writings of St. Paul.

Not infrequently we hear of cases of allegedly diabolical possession. A very practical contribution toward a scientfic knowledge of this subject is *Les Maladies Nerveuses ou Mentales et les Manifestations Diaboliques,*[12] by Abbé P. de Tonquedec, for many years official exorcist in the archdiocese of Paris. The author's purpose is to present norms for distinguishing true diabolical possession from neurotic or psychic conditions which may closely resemble possession. He tells us that in maladies like pyschasthenia and epilepsy there may be immoral manifestations quite out of harmony with the sufferer's normal character, which one must be careful not to identify as the activities of an indwelling evil spirit.

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The *Ephemerides Theologicae Lovanienses,* 1939 I, contains an article by the Rev. A. Dubarle, O.P., on the view of St. Cyril of Alexandria concerning the extent of Christ's human knowledge. Many different opinions have been broached as to the teaching of the Saint on this subject, some holding that he attributed real ignorance to our Lord—especially on the matter of the last day—others contending that he was speaking of only apparent ignorance. Still others believe that Cyril changed his views with the passing of time, particularly after the Nestorian controversy. Father Dubarle interprets the mind of the Saint thus: since the Word took to Himself the imperfections of human nature—sin alone excepted—He assumed in His human intellect a measure of real ignorance, particularly regarding the

[11] Rome, Angelicum, 1939. [12] Paris, Beauchesne, 1938.

time of the last judgment. However, Cyril believed that after His resurrection the Word Incarnate, being about to take possession of His kingdom, knew when the world was to end.

When St. Paul asserts that Christ is a priest according to the order of Melchisedech,[13] he makes no reference to any likeness between the two respecting the offering of bread and wine by Melchisedech as symbolic of the offering of the eucharistic sacrifice by Christ. In view of this, can it nevertheless be said that Melchisedech was intended by God to typify Christ sacrificing Himself under the appearances of bread and wine as the High Priest of the New Testament? Discussing this question from the standpoint of patristic tradition in the *Irish Ecclesiastical Record* for May, the Rev. P. F. Cremin points out that it is the practically unanimous teaching of these witnesses of revealed truth that in the offering of Melchisedech the Holy Eucharist was foreshadowed. " Down to the eighth century those who wrote about the bread and wine (of Melchisedech) number twenty-four. Only one, Tertullian, makes no mention of the Blessed Eucharist; twenty-three compare the bread and wine and the Eucharist; and of these, twenty teach that the relations between the two are those of type and antitype."

Canon George Smith contributes to the *Clergy Review* for June a scholarly and inspiring paper entitled " Considerations on the Sacred Heart ". After laying down the theological principles on which devotion to the Sacred Heart is based, he develops the thesis that this is essentially an *incarnational* devotion—that is, its main purpose is to remind us of the *human*, rather than of the *divine*, love of Christ for us. And, as he goes on to explain, this human love of our Lord embraced not merely an act of His will but also an emotional element. " It is perhaps one of the providential rôles of the devotion to the Sacred Heart to remind us of the truly human quality of the love of the Word Incarnate, to make us remember that in Christ—in whom there was no concupiscence—the emotions were not an obstacle which He had to overcome in His spiritual life, but an aid of which He made constant use, human powers which He pressed into service for the purpose of our redemption, and which, like all else that the Word assumed into His divine personality, have for that very reason become forever hallowed and sanctified."

[13] *Hebrews, 5:6.*

The theology of Our Lady, so intimately united to Christology and so important for the proper understanding of the devotional life of the Church, is receiving considerable attention at the present day, particularly the subject of Mary's participation in the acquisition and the distribution of graces. The Servite Fathers of the College of St. Alexius in Rome have undertaken the publication of a periodical called *Marianum*, which will be issued three times a year and will contain articles of a theological, devotional and liturgical nature in reference to the Mother of God. Among the interesting features in the initial numbers is a series of articles on the development of the belief in the Immaculate Conception in medieval England. The author, the Rev. Francis Mildner, O.S.M., informs us that the feast of Our Lady's Conception was firmly established in the early part of the twelfth century. Although many theologians quote St. Anselm as a defender of the doctrine, Father Mildner asserts that he denied Mary's Immaculate Conception. However, after the Council of London, held in 1129, most of the English theological writers staunchly upheld it. One of the outstanding champions of this prerogative of Our Lady was Eadmerus, a Benedictine monk of Canterbury.

The Rev. Gabriel Roschini, O.S.M., contributes to the second number of *Marianum* a lengthy article on Our Lady in the thought and teaching of Pope Pius XI. The author cites all the statements—forty-six in number—found in the discourses and official documents of the late Pope concerning the Blessed Virgin. Then, classifying these pronouncements under three general headings—Mary and God, Mary in herself, Mary and mankind—Father Roschini points out that in these various statements there is found a complete course in Mariology. Especially worthy of note are the numerous assertions of Pius XI to the effect that Mary is the Co-Redemptress of mankind and the Mediatress of all graces. We are informed also that the late Pontiff instituted commissions in Belgium, Spain and Rome respectively, to study the question of Mary's universal mediatorship with a view to its solemn definition at some future date.

The same issue contains an article by the Rev. J. B. Carol, O.F.M., developing the theme that in accordance with the divine degree of *recapitulation* Mary was destined to concur in man's redemption in a manner analogous to that in which Eve con-

curred in the work of man's destruction. From this he concludes that since Eve's coöperation in Adam's sin was not limited to the mere communication of the effects of that sin to their posterity but included also a share in the perpetration of the sin itself, so Mary's coöperation in Christ's redemption is not limited to the bestowal of graces on mankind but includes also a real participation in the objective work of the redemption.

Writing in the *Clergy Review* for March the Rev. C. J. Woolen defends the form of devotion to Our Lady advocated by the Blessed Grignon de Montfort, whereby a person abandons all his good works and the value of them into the hands of Mary that she may dispose of them as she pleases, and thus becomes a " slave of Mary ". Some Catholics disapprove of this devotion on the score that it seems to have a tinge of Quietism and that it gives predominance in the imagination to the Blessed Virgin rather than to our Lord. Father Woolen essays to answer these objections and concludes that, " just as the religious by the vows of poverty and obedience surrenders his possessions and will so that he may find fewer impediments in the following of Christ, so does the Slave of Mary surrender to her those things which may distract him from true devotion to Christ ".

Father Keuppens of the White Fathers has published a *Compendium Mariologiae*,[14] and Father H. Seiler, S.J., a work (in German) entitled *Coredemptrix*.[15] To students of Mariology it is of interest to find that both writers ascribe to Mary a true activity in the objective work of the Redemption. However, the opposite view denying such a manner of coöperation to Mary—the view developed by Canon George Smith in *Mary's Part in our Redemption* [16] is defended by the Rev. W. Goosens in *De Co-operatione Immediata Matris Redemptoris ad Redemptionem Objectivam*.[17]

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Mention has already been made in these columns of the view advocated by Dr. H. Doms concerning the ends of marriage.[18] He holds that parallel with the final purpose usually assigned

[14] Pères Blancs, Heverle-Louvain, Belgium.
[15] Rome, Gregorian University, 1939.
[16] ECCLESIASTICAL REVIEW, August, 1938, p. 187.
[17] Desclée, 1939.
[18] ECCLESIASTICAL REVIEW, September, 1936, p. 311—February, 1939, p. 311.

by Catholic theologians—the procreation and the rearing of offspring—should be put the mutual perfection of the married parties by the entire self-giving of each to the other, expressed most perfectly in conjugal intercourse. In the *Nouvelle Revue Théologique* for January the Rev. R. Boigelot, S.J., takes exception to this theory and argues for the traditional view. For example, he claims that Dr. Doms does not emphasize sufficiently the social object of marriage, that he stresses unduly the individualistic and sexual factors of the married state and that his theory tends to underrate the excellence of virginity and of celibacy.

Dr. Doms replies in the May issue of the same periodical. He protests that he does regard procreation of offspring as one of the chief purposes of marriage, a purpose that is intimately connected with the purpose of which he speaks. However, he claims, theologians following the teachings of St. Thomas have neglected to give due consideration to the significance of conjugal relations as perfecting and complementing the personality of each of the two partners of a marriage, apart from their relation to the propagation of the race. Indeed, he asserts, unless such a purpose be postulated—in other words, if procreation be regarded as the one principal end of marriage to which all other ends must be subordinated—it seems to follow that marital relations are unlawful when one party is sterile, either permanently or for a time (that is, during the period of agennesis).

Evidently, this matter offers a theological problem on which much light can still be thrown, and both Dr. Doms and Father Boigelot are certainly correct when they say that up to the present we have not a " theological synthesis of marriage that is satisfying, complete and balanced ". Furthermore, in justice to Dr. Doms the paragraph of *Casti Connubii* should be remembered which states: " This inward moulding of husband and wife, this determined effort to perfect each other, can in a very real sense, as the Roman Catechism teaches, be said to be the chief reason and purpose of matrimony, provided matrimony be looked at, not in the restricted sense as instituted for the proper conception and education of the child, but more widely as the blending of life as a whole and the mutual interchange and sharing thereof."

In these days of legal sterilization it is useful to realize that none other than St. Thomas is sometimes cited as an advocate of the theory that the civil government may lawfully resort to this expedient in order to prevent the propagation of defectives. The passages cited in support of this assertion are chiefly the *Summa,* II-II, Q. 65. a. 1 and the *Contra Gentiles,* L. III, c. 146. Commenting on this subject in the *Angelicum,* 1939 I, an anonymous writer explains that the Saint was referring to sterilization only as a punishment for crime—a doctrine quite in accord with present-day Catholic moral teaching. Moreover, the wording of the former citation as it is found in some editions is not that of St. Thomas himself but that of a sixteenth-century editor of the *Summa.*

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Discussing the resurrection of the body in his doctoral thesis, *Resurrectionis Justorum Doctrina in Epistolis S. Pauli,*[19] Fr. Simeone, O.F.M. Conv., believes that to interpret the identity of the risen body with the body in this life in the sense that the same soul will animate *any* matter, giving it the individual characteristics that the person had on earth, is an untenable explanation of the doctrine. Continuing a series of articles in the *Irish Ecclesiastical Record,* the Rev. P. J. Hamell writes in the April issue on the " Resurrection of the Just ". After stating that Christ's risen body is the model to which man's risen body will be conformed, he adds this prudent qualification: " It does not necessarily follow that everything that has been recorded concerning His body will be verified in the case of His followers. Many of His actions must be considered as an exercise of divine power rather than as normal activities of His body without such intervention. The fact that He could appear in different forms, and could vanish, or enter a room, the doors being shut, may depend almost totally on divine action. . . . We can be certain, however, that as His risen body was a human body consisting of flesh and bones, the body of the risen believer, modelled on His body, will similarly consist of flesh and members."

FRANCIS J. CONNELL, C.SS.R.
Mount St. Alphonsus, Esopus, New York.

[19] Rome, Franciscan Conventual College, 1938.

Book Reviews

THE SACRIFICE. By Paul Bussard. The Leaflet Missal: St. Paul, Minn., 1939. Pp. 210.

Dr. Bussard writes with ease, insight and judgment on anything connected with the Mass. He possesses a literary taste, he has a sense of the meaning of words and has developed his gift for poised expression. Added to this equipment is a thorough knowledge of the history of the liturgy and the knack of interpreting theological truth simply. Consequently, in *The Sacrifice* we have one of the best achievements of American spiritual writing. Other works on the Mass have equal intrinsic value, but this book has the added merit of being composed with an understanding of the conditions in the United States. One realizes that he is not reading a foreign production but something that spiritualizes the life as we live it in our own country.

The Sacrifice is a running commentary on and an excellent interpretation of the Mass as we have it in the missal of the Roman rite. Without claiming to do so, the book initiates the reader into the heart of the liturgical movement. The author carries the reader, and does it with interest, from the prayers at the foot of the altar on through to the Last Gospel. No abstruse theological speculation creeps into his pages. He avoids controversies, and where there is no definite proof for an interpretation he does not attempt to invent one. He discusses prayer in a happy manner, and gives to the layman a feeling for his part in the community offering. Prayer and the Mass are seen more in the aspect of giving than of getting. Excerpts from the Old Testament are tied in with the movement of the Mass in such a manner as to make intelligible expressions which have puzzled more than one priest. Father Bussard helps the reader realize that we "do" something at Mass. He is effective in his portrayal of the inner oblation, on the necessity of giving one's whole self in imitation of the Master. He describes well our merging with Christ in the offering of Himself. He might have laid a slightly heavier emphasis on the objective reality of the Mass as something that we must give. He does excellent service on the giving of self, but he seems to emphasize Christ being present more than Christ being our Gift. We must give ourselves, but we must also give the body and blood of the High Priest in union with Him.

The diagram of the action of the Mass which he has enlarged from one of his former works is the best scheme of visual education now on the market. Consequently no teacher of religion should be without this book, and its price is reasonable. Priests should take it upon themselves to make the book known far and wide. In fact, it would be a fine contribution to Catholic education if the work were to be issued as a text book for religion classes.

THE UNIFIED GOSPEL. By Wilfred G. Hurley, C.S.P. New York: Paulist Press, 1939. Pp. 285.

JESUS THE MESSIAH. By J. M. Bover, S.J., and adapted by J. Burghers, S.J. New York: C. Wildermann Co., 1938. Pp. 334.

THE NEW TESTAMENT. Corrected edition of the Rheims Version. Preface by James A. Carey. New York: C. Wildermann Co. 1937.

The first of these two books are identical in purpose: in fact it is difficult to choose between the two. They are harmonies of the Gospels or arrangements in chronological order designed to make more easy and understandable the reading of the life of Christ. The first comes from the popular Paulist writer who adapted his work from an Italian arrangement. The second is the product of a Jesuit professor in Rome and adapted into English by Father Burgers. Both use the Rheims Version. But the text in *Jesus the Messiah* is taken from the reëdited edition by Father Carey which Wildermann published two years ago.

The relative merits of the first two books naturally depend on the format, paragraphing, titles and printing. From the point of view of handy size and format and general neatness of appearance Fr. Bover's work is preferable. It is almost a pocket edition, and with its illustrations makes the reading of the Gospels very attractive. Father Hurley's has the advantage of more and better notes and explanations and individual headings for the paragraphs and of giving the words of our Lord in heavier type. In the sequence of events, Fr. Hurley has a more natural arrangement: for instance, in the episode of the woman of Canaan; but he uses Mark 7:29 instead of Matt. 15:28 and thus loses the remark, " O woman, great is thy faith ". He likewise omits John 6:6. Either volume can be recommended by priests who wish the laity to read the Bible. In fact, priests should make an effort to get either of the two into the hands of as many people as possible.

The corrections in the New Testament in the matter of punctuation and collocation of words make it advisable that priests popularize this reëdition, at least until the new version comes to the market.

BY POST TO ROME. By T. J. Sheridan, S.J. Kenedy & Sons: New York, 1939. Pp. 128.

These are imaginary letters from a father to his son. The father had " gone over to Rome ". There were repercussions in the family and among his friends, but the questions posed by the son in faraway

Hong Kong stirred the father to the task of letter writing through which he hoped to bring the son along the path he had followed in his old age. Each letter discusses some point of Catholic doctrine which is a bugbear to those outside the Church, or refers to the foibles of Catholics. To make the letters more interesting the incidents of family life at home are included and the son is not only kept informed of the "news" but learns how others have reacted to his father's change of heart.

Not only points of Catholic dogma but also the personal characteristics of Catholics, particularly of priests, come in for open discussion. The fact that the letters receive their local color from English scenes and customs, however, makes one wonder why they were published in America. The publisher states that the book is intended for those inquiring into the faith, but it is difficult to see why an inquirer in this country would be interested in English foibles or in hearing English patriotism praised.

MANUALE THEOLOGIAE DOGMATICAE. By Anselm Stolz, O.S.B. and Herman Keller, O.S.B., Fasciculus II, De Sanctissima Trinitate, by Anselm Stolz. Herder: Freiburg im Breisgau. 1939. Pp. viii + 141.

This is the first of the fascicles which will ultimately make up a manual of dogmatic theology. The authors intend to take advantage of all the works of scholarship which would contribute to the development of dogmatic theology, and offer these contributions to the students of theology. It is an ambitious program, and in this first fascicle to appear, Father Stolz has carried it out very well.

The treatise begins with a short but satisfactory history of the doctrine of the Blessed Trinity. It includes a careful and objective summary of the most important rationalistic theories about the origin of the doctrine, a masterly explanation of the texts of the Old and the New Testament, in which the doctrine of the Blessed Trinity is foreshadowed or announced, a fine exposition of the development of this doctrine in the early Church, of the heresies in which it was denied, and finally an account of the Catholic reaction to these heresies.

The second part, "Intellectus Fidei Trinitatis," follows the traditional order of Saint Thomas. In this exposition Father Stolz utilizes the writings of the Fathers, particularly those who wrote in the Greek language, to an extent not equalled in the ordinary text book of theology. In some such manuals, unfortunately, the "proof from tradition" of any thesis gives the impression of a group of texts selected more or less at random. The patristic lore of Father Stolz is such that the writings of the Fathers themselves contribute toward the theological appreciation of the matter under consideration.

The author's enthusiasm for the writings of the Greek Fathers has led him to prefer the Greek term "perichoresis" to the no less distinguished Latin synonym "circuminsessio". In bringing out this work Father Stolz has manifested the tremendous steps which have been taken in patristic studies, and he has shown indirectly the need for investigating the contributions to the science contained in the theological literature of later times.

The student of theology who wishes to keep abreast with his science cannot afford to miss this treatise, as well as the others, which promise to constitute one of the truly great works of our time.

THE BEGINNINGS OF THE CHRISTIAN CHURCH. By Hans Lietzmann. Translated by Bertram Lee Woolf. New York, Charles Scribner's Sons. Pp. 406.

THE FOUNDING OF THE CHURCH UNIVERSAL. By Hans Lietzmann. Translated by Bertram Lee Woolf. New York, Charles Scribner's Sons. Pp. 432.

These two volumes are the first two of a work which is projected to cover in five volumes the entire history of the early Christian period. The author, Professor Hans Lietzmann, succeeded in 1924 to Harnack's chair in the University of Berlin, and is well known in the field of ancient church history as editor-in-chief of numerous learned journals and book-series, and as chairman of the section of the Prussian Academy of Sciences dealing with the Fathers of the Church. In the Catholic world he is very well known since the publication of his famous work, *Petrus und Paulus in Rom"* (2nd edition 1927), after Anton De Wall's and Paul Styger's excavations in St. Sebastiano in Rome. In this book he pointed to the fact that the ancient Protestant thesis claiming that St. Peter never had been in Rome, is no longer tenable, and that there can be scarcely any doubt of the genuineness of their graves shown about A. D. 200 in the same places where they are revered to-day.

His present work on the "beginnings of the Christian Church" represents the result of over forty years of first-hand study of the source material. From the beginning of the current century there has been a growing need for reëxamination and reïnterpretation of the evidence available for the earliest and most formative period of the Christian Church. Floods of light have been thrown on this period during the last twenty years by epigraphical and other data and Dr. Lietzmann has made full use of his rich treasury of knowledge of this material. The newest results of archeology and patrology are not only mentioned but used to give a complete picture of the beginnings of the Christian

Church. The chapters on the beginning of the creeds and the Christian liturgy, for instance, are new contributions of the finest quality.

In the first volume the author covers the period from 40 B. C. to 180 A. D. The reader gets here a deep impression of the influences which primitive Christianity received from the surrounding cultures. Concerning the writings of the New Testament Dr. Lietzmann follows the line of Harnack, and Catholics cannot share his opinions about the origin of the Canon of the New Testament.

The second volume depicts, after an introductory chapter, "the world empire of Rome in the second and third centuries," the development of the Church and her institutions until Gallienus's edict of tolerance. The parallels which the author gives to the Virgin Birth (p. 152) are not convincing. Speaking about the "fish" (p. 188) he should have mentioned the outstanding work of F. J. Doegler, Ἰχθύς, the fifth volume of which is just now being published. The use of this work would have prevented the author from interpreting the banquet pictures in the Catacombs as signifying the Lord's Supper. On the other hand, one must recognize that Dr. Lietzmann's restraint in dubious questions is a special feature of this fascinating volume of church history.

PAUL. By C. Lattey, S.J. Milwaukee, Bruce Publishing Company. 1939. Pp. 182.

Father Lattey's book has developed out of a series of lectures delivered at Heythrop College, England, and is "dedicated to my disciples, past, present, future". The name of the author is familiar to all Scripture scholars from his edition of "The Westminster Version of the Sacred Scriptures".

The material is divided into four chapters: St. Paul, Christ, The Church, The Christian. In the first chapter the author presents the historical background of the Apostle of the Gentiles, the three cultures which we meet in him, the Jewish, the Greek and the Roman, and St. Paul the man and saint as reflected in his letters. The chapter on Christ shows St. Paul's teaching regarding the existence of God, the divinity of Christ, the Incarnation, the life of Christ, the Redemption, the High Priest, the Holy Eucharist and the Resurrection. The chapter on the Church has eight divisions: The Expectation of the End, Unity, Government, Faith, Teaching, the Law, the Ministry, the Mystical Body. The final chapter on the Christian treats of Original Sin, Justification, Reprobation, Baptism, Crucifixion, Grace, Christ Without, Christ Within. Thus the reader gets a synthesis of the whole of Christianity as seen through the eyes of St. Paul. It should produce not only a deeper understanding of Pauline doctrine but a clearer conception of Christianity itself.

Book Notes

Shortly after the election of the present Holy Father an energetic newspaperman saw an opportunity to capitalize on a personal interest. Gathering his own Roman notes, he hied himself to a newspaper "morgue," and the result is *Pius XII, Pope of Peace.* Joseph F. Dinneen is a good reporter and the book is a fine example of full-blown journalese. Mr. Dineen in his Foreword indicates a great admiration for the unimpressionable reporter, and here and there are sentences and phrases that seem to have for their only purpose the message, "See, I'm not afraid of offending." Many who might otherwise know nothing about the papacy will learn something about it, because Mr. Dineen's book is novel, lively, and interesting, but is gossipy and wrong in many spots. (New York, Robert M. McBride & Co.; pp. 281.)

Dr. James Hogan, Professor of History, Cork University, is author of the excellent brochure, *Modern Democracy.* (New York, Longmans Green & Co.; pp. 96.) The fruits of the Nietzschean gospel of the superman, the Darwinian theory of animal survival and the Marxian doctrine of class war were the World War and the atheistic Communism of Russia. The World War did not create the economic, political and spiritual crisis which confronts the world, but multiplied, concentrated and brought to the surface tendencies which already existed. Thus begins Dr. Hogan's thesis, and in five chapters—Modern Democracy, Liberal Democracy, Parliamentary Democracy, Functional Democracy, Workers' Democracy—he draws the conclusion that, if there is one lesson more than another to be learned from the history of the current ideologies, it is to avoid them like the plague. Our problems, he declares, are cultural and religious and as such have nothing in common with any of the millennial policies of revolutionary human change and endless progress. While written with an Irish reading public in mind, *Modern Democracy* is well worth-while reading for thinking people in America.

Benziger Brothers are issuing a second and revised edition of Geoffrey Webb's *The Liturgical Altar.* This little volume met with a warm reception from priests and architects, and the second edition should increase its popularity. (New York; pp. 118.)

A consuming love for justice and right animated St. John Chrysostom, and inspired him to preach continuously against the license and selfishness of the wealthy and privileged. As a result his death in 407 was while he was in exile. Donald Attwater brings out the spiritual life and character as well as the events of the saint's life in his *St. John Chrysostom The Voice of Gold.* (Milwaukee, Bruce Publishing Co. Pp. xv + 202.) Mr. Attwater's scholarly studies on personages and events of the Eastern Church are so well known and appreciated that the success of this volume is assured. On the other hand, although written in popular style for the general reader, it will surely add to his scholarly reputation.

Dr. Mariano Campo of the Catholic University of Milan, in writing his *Christiano Wolff e il Razionalismo Precritico,* has done a valuable service not only for professional philosophers but for the priest on the mission who keeps up with his philosophical studies because of the requirements of his position or because of a personal liking for philosophy. The book is thoroughly scientific, however, and will require more than a cursory knowledge of Italian to be understood and appreciated. Those interested in eighteenth-century philosophy will consider Dr. Campo's work as a necessary book for their library. (Milan, Italy, Società Editrice "Vita e Pensiero," pp. Vol. I, xix + 389; vol. II, xii + 303.)

Ascetical Conferences for Religious, by the Rev. Henry Gabriel, S.J., are the fruit of many years' experience as a retreat master and director of religious. The appeal of a book of conferences depends upon so many subjective factors that it is impossible for a reviewer properly to evaluate it. Father Gabriel's conferences, however, should have as wide an appeal as his *An Eight-Day Retreat,* and one is quite safe in recommending the conferences to those who

desire to advance in the interior life. (St. Louis, B. Herder Book Co.; pp. vi + 372.)

Those interested in Catholic Action, in deeds rather than words, will find much to interest them in Monsignor Millot's biography *Monseigneur Gibier.* (Paris, La Bonne Press, pp. 203). The Bishop, known throughout France as the "précurseur de l'Action catholique, died in 1931. He was born on Christmas day 1849, during a winter that was "très rude", and that "hard" winter was a harbinger of difficult days to follow. Two wars and the religious persecution at the beginning of the century were the highlights of these difficulties, but Monseigneur Gibier was spiritually and intellectually prepared for these as well as for the lesser social and political difficulties that beset French Catholics between the Franco-Prussian and the World War. Monsignor Millot writes his biography as a friend and fellow worker of "l'incomparable évêque de Versailles". The book is intended for popular reading, but the author has chosen his material so well that this little book may take its place among those of permanent historic value. The style is clear and simple, and those who read French at all will experience no difficulty in reading the book.

Apropos of the so-called Italian pronunciation of Latin, a correspondent calls attention to a little volume entitled *Correct Pronunciation of Latin according to Roman Usage,* by Father De Angelis, C.R.M. The St. Gregory Guild, Rittenhouse Square, Philadelphia, is the publisher. Our correspondent reports that a number of "slips" have crept into the phonetics, but that the book is very helpful for all that.

Christ's Twelve, by the Rev. F. J. Mueller, appears in a second printing. The twelve short sketches of the Apostles first appeared in 1931 and enjoyed a steady popularity. (Milwaukee, Wis., Bruce Publishing Co.; pp. 113.)

The fourth edition of the Right Rev. William C. McGrath's *The Dragon at Close Range* is prepared for the United States reading public. Monsignor McGrath, Prefect Apostolic of Lishui, writes in a chatty, intimate style of his impressions and experiences in the China that "lies beyond Shanghai". The stories range from a description of the "Red Siege of Kanchow" to a few pages on a Chinese banquet and fishing with cormorants. Not the least important part of the little volume are the hundred excellently reproduced photographs. This is a book that should be on the shelf of everyone interested in Catholic missionary work. (Scarboro Bluffs, Ontario, St. Francis Seminary; pp. 211.)

The Mystical Body and the American Bishops is a compilation by Father Gerald Ellard of quotations, made by members of the American hierarchy, bearing on the doctrine of the Mystical Body of Christ. The chapter headings are "The Church Now Calls Herself the Mystical Body;" "The 'New' Society and the 'New' Morality;" "The Layman a Liturgist in the Mystical Body;" "How Lay Liturgists Actively Share in Mystical Body Worship;" "Mystical Body Union in Communion," and "Union in Mystical Body or Totalitarian Communism."

The little volume is intended chiefly for layfolk, and study club topics and questions are added to each chapter. It is a timely and inspiring compilation. (St. Louis, The Queens Work, Inc.; pp. 160.)

The second issue of the new philosophical quarterly *The Thomist* is at hand. Although there may be some overlapping, it is not intended to invade the fields now ably served by *The New Scholasticism* and *Thought.* Edited by the Dominican Fathers of St. Joseph's Province and published by the house of Sheed and Ward, New York, its contents are well worth-while and the mechanical format modern and attractive.

The outstanding article in the present issue is probably Father W. H. Kane's "Introduction to Philosophy". Using a style patterned on that of the *Summa,* Father Kane takes up the meaning of the word philosophy and the need for philosophy; he advances the thesis that philosophy is science and human wisdom. It is a splendid brief article and will be valuable in introducing the *Summa* to those who are unacquainted with it or somewhat fearful of tackling it Other articles are "Notes on Intuition," "A Thomistic Analysis of Peace," "Thomism as a Frame of Reference," and

"Problems for Thomists: I. The Problem of Species". Two lengthy book-reviews and editorial comment complete the issue.

The two issues that have appeared give promise that *The Thomist* will be a real contribution to scholarship, and worthy of the support of those priests who are interested in philosophy only in so far as it is of aid in their priestly ministry.

The Papal Conflict with Josephinism by Sister Mary Clare Goodwin is a doctoral dissertation. The author's thesis is that the conflict of Joseph II with the Papacy was due to his misconception of the relation of the Church to the State. He considered the State supreme, and that the Church must be subservient, and he strove to curtail the authority of the Pope by transferring papal prerogatives to the episcopacy which he was able to control. He probably acted in good faith and claimed to his dying day that his reforms were well-intentioned and prompted solely by benevolence. Sister Mary Clare points out, however, that had he, "in conjunction with the hierarchy and with the sanction of the Pope, confined himself to the correction of abuses and misuses only, he could have achieved his purpose of unifying Austria instead of disrupting it." In spite of the stark "scholarly" style and the inevitable plethora of footnotes, the book is interesting and informative (New York, Fordham University Press; pp. xiii + 157.)

The Rev. Edwin A. R. Rumball-Petre is writing a monograph on the first five editions of the Bible in a modern language that were printed on the American continent, namely, the three quarto editions in German, printed by Christopher Saur at Germantown, Pa., in 1743, 1763, 1776, the duodecimo edition in English, printed by Robert Aiken in Philadelphia, 1781-1782, and the quarto edition of the Catholic Bible in English, printed by Carey, Stewart & Company of Philadelphia in 1790.

It will be much appreciated if any of our readers with knowledge of the existence of such rare editions, will write him at 507 Fifth Avenue, New York City, advising (1) present owner, (2) previous owners, (3) present location, (4) condition of Bible, leaves missing, (5) character of binding.

Prominent among the books of American Catholic history which promise to make easier the labors of the writer who will take up the pen of John Gilmary Shea and write a modern history of the Church in the United States, is Roger Baudier's *The Catholic Church in Louisiana.* (New Orleans, Louisiana Catholic History Publishers; pp. lvii + 605.) The beginnings of Catholic history in the state are rather sketchily drawn, but beginning with the revival of the Mississippi Company (1717) Mr. Baudier gives page after page of interesting information. The influence of the French Revolution, Jansenism, Voltairian "thinking" and other forgotten factors are delineated in this pioneer volume on the Church in Louisiana. Without doubt this book will take its place as a "source". In the meantime it makes very interesting reading for any priest interested in American church history.

Father Terence Connolly's edition of Coventry Patmore's "The Wedding Sermon", "The Unknown Eros" sequence and "L'Allegro," under the title *Mystical Poems of Nuptial Love,* is a welcome contribution to English literature studies as well as an attractive volume for the plain lover of poetry. Both will find the nearly 200 pages of penetrating and scholarly notes quite helpful, but the latter will particularly appreciate Father Connolly's effort to show the spiritual stature of Patmore. An appreciation of this spiritual outlook of the poet is absolutely necessary for a proper understanding and enjoyment of his poetry. (Boston, Bruce Humphries, Inc.; pp. xix + 316.)

Anything written by Dorothy Day is a *must* for those interested in applied sociology. *From Union Square to Rome* is her *apologia pro vita sua,* and it gives the answer to many of the whys and whats that are asked concerning this vivid personality. The book is written in popular style, and there is really nothing unusual in the story. Other converts have written much more startlingly and dramatically, but the description of her personal religious struggle is likely to command the undivided at-

tention of the average reader. The thesis of the volume, apart from the spiritual autobiography, and the reason perhaps for starting the new spiritual outlook, is that in Catholicity alone can be found the remedy for our present social unrest and disorder. (Silver Spring, Md., Preservation of the Faith Press.)

Benziger Brothers announce a second revised edition of A. M. Scarre's *An Introduction to Liturgical Latin.* The book is intended to help nuns and sisters to a better understanding of the Divine Office. A minimum amount of grammar and a carefully selected vocabulary with "examples" taken from ecclesiastical writings make up the method, and it is a good one. The next edition, however, should contain a chapter on pronunciation. (New York, Benziger Brothers; pp. 213.)

Father John K. Sharp, whose *Our Preaching* and *Next Sunday's Sermon* are being well received by American priests, has published a new book of sermons, *Spoken in the Market Place,* (New York. Joseph F. Wagner, Inc., pp. 221.) The fifty-six sermons on the Creed and the Sacraments are reprints of sermons which Father Sharp wrote for the religious page of a secular newspaper. The potential audience called for a clear, concise, objective presentation of Catholic teaching, and these instructions provide just that. There is no labored effort for effect, no theological disputation, no long argumentation. Priests who use "sermon books" will find many a hint and help for their instructions.

Theologiae Asceticae Cursus Brevior, by Ludovicus Hertling, S.J., is a Latin reedition of the author's German handbook on ascetical theology, published in Innsbruck in 1930. In the author's terminology, ascetical theology is synonymous with spiritual theology. He does not consider the "via purgativa," the "via illuminativa" and the "via unitiva" as identical with the "via incipientium," the "via proficientium" and the "via perfectorum." He follows the latter division in his *Ascetica Specialis.*

The work, though very brief, is quite helpful. The author has concentrated on the practical aspects of spiritual theology. He is, for the most part, definite, clear, and free from the vagueness which vitiates so many of the modern manuals of theology. Of particular interest and value is his section on meditation.

Although the book embodies lectures given at Innsbruck, and in the Gregorian and the Lateran seminaries in Rome, there is not the insistence upon a connexion between the priesthood as such and Christian perfection which might be expected. For this reason the book would be more valuable for the training of religious than of diocesan priests.

Heralds of Christ the King, by Sister Mary Theodore, S.S.A., is an account of Catholic missionary activity in the Pacific Northwest between 1838 and 1878. The author spent six decades in that same field and is familiar with its history and traditions. She has depended a great deal upon her knowledge of these traditions and her bibliography is a very short one indeed. Some fine reproductions of old paintings and photographs add to the value of the volume. (New York, P. J. Kenedy & Sons; pp. xvii + 274.)

Volume IV of *Manuel d'Études Bibliques* by the Abbés Lusseau and Collomb, which takes up the Gospels, has reached its ninth edition, and is now ready for distribution. The work is so well known and has been quoted so often in the pages of the REVIEW that it is merely necessary to note the appearance of this latest edition and to mention that the publisher is Pierre Téqui, 82 Rue Bonaparte, Paris. (Pp. vii + 915.)

Le Sacré-Cœur is a French translation of the various pontifical letters and encyclicals regarding devotion to the Sacred Heart of Jesus. The translator, Father Paul Galtier, S.J., has added notes and comments to the documents of Popes Leo XIII, Benedict XV and Pius XI to make an extremely interesting and valuable little volume. The French is not difficult, and priests in the United States will find the book very helpful for preparing First Friday instructions. (Brussels, Belgium, Desclee, De Brouwer & Cie; pp. 225.)

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THE BOOK OF JOB. By the Reverend Edward J. Kissane, D.D., L.S.S. Browne and Nolan, Ltd., Dublin, Ireland. 1939. Pp. lxiv + 298. Price, 12/6.

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MY CHANGELESS FRIEND. Twenty-fourth Series. By the Reverend Francis P. Le Buffe, S.J. Apostleship of Prayer, New York City. 1939. Pp. 67. Price $0.30 postpaid.

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